REVIEW OF SERVICE-CONNECTED COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION PROGRAMS

HEARING

BEFORE THE

SUBCOMMITTEE ON
COMPENSATION, PENSION, AND INSURANCE

OF THE

COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

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REVIEW OF SERVICE-CONNECTED COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION PROGRAMS

THURSDAY, SEPTEMBER 22, 1983

House of Representatives,
Subcommittee on Compensation,
Pension and Insurance,
Committee on Veterans' Affairs,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:02 a.m., in room 334, Cannon House Office Building, Hon. Douglas Applegate (chairman of the subcommittee) presiding.

Present: Representatives Applegate, Dowdy, McEwen, and Burton of Indiana.

OPENING STATEMENT OF CHAIRMAN APPLEGATE

Mr. Applegate. Good morning. The subcommittee will come to order.

You might see an absence of some of the Democrat members because there has been a caucus called for 9 o'clock this morning. However, we do anticipate seeing, hopefully, a few of them come in, plus some of the Republicans who will not be attending the Democrat caucus.

This morning we are here to discuss and review the compensation and DIC program for veterans with service-connected disabilities and for survivors of veterans who died from service-connected causes. Each year we hold an oversight hearing so that we can hear from not only the Veterans' Administration but from the veterans' organizations whose service officers, in effect, look over the shoulder of Veterans' Administration personnel on a daily basis.

In reviewing the testimony, I see we will have comments on a very broad spectrum of this important benefit program. There seems to be a great deal of interest in the DIC rates for widows. The current system is based on the concept that DIC will be a continuing benefit for the surviving spouses, supplemented by social security for those widows with small children or who reach the age where they are no longer in the employment market. In other words, DIC, by itself, was not intended to provide full support.

During previous hearings, the principle has been put forward by some organizations that the rank or pay grade of a veteran who was separated from service many years ago has little bearing on or relationship to his or her postservice history. I understand the Veterans' Administration is in the process of getting information together which would be helpful to the organizations in developing legislative proposals which would be alternatives to the present manner of determining the rates for widows. I am sure that when this data becomes available, we will be receiving some specific legislative proposals for consideration by this subcommittee.

Mr. McEwen, the ranking minority member, is not here at the moment, but he is on his way here from a congressional prayer breakfast. We will recognize him when he does come in. However, we are privileged to have with us the Honorable William Whitehurst of Virginia, who wants to discuss his bill relating to those receiving DIC. Bill, we certainly welcome you to the subcommittee and you may proceed in any manner you wish. We have your testimony here. You may summarize or say it all, as you wish.

STATEMENT OF HON. G. WILLIAM WHITEHURST, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VIRGINIA

Mr. WHITEHURST. Mr. Chairman, it's hardly even a 1-minute speech, so I think I'll just stick with it, if I may.

I realize that this is an oversight hearing and not legislative in nature. Nevertheless, I am pleased to have the opportunity to appear before you this morning to testify on behalf of H.R. 433, legislation that I have introduced in an effort to correct an inequity in the current law which dictates that eligibility for DIC benefits terminates upon remarriage of a surviving spouse, but can be reinstated if that marriage is terminated.

H.R. 433 will amend title 38 of the United States Code and provide that remarriage of the surviving spouse of a veteran after age 60 would not result in the termination of dependency and indemnity compensation.

As you are aware, I have introduced this legislation in prior Congresses, and I have enjoyed the support of a number of my colleagues for this legislation throughout the years. I now have 37 cosponsors of H.R. 433.

Enactment of this bill would bring the Veterans' Administration in line with the Social Security Administration, the Office of Personnel Management, and the Department of Defense, which do not terminate eligibility for survivor benefits if remarriage takes place after age 60.

H.R. 433 strikes at least a small blow in support of the noble institution of marriage. The cost of this bill is not expected to be high, and I believe that the funds would be a small price to pay to permit some fine elderly people to live together in comfort and dignity—legally married.

I do thank you for this opportunity to appear.

And, Mr. Chairman, just let me make one additional observation. When I initially introduced this legislation several years ago, we got a cost calculation, and had the bill been enacted into law back in, say, 1979, today, in 1983, the cost would be $1,887,000. That's a lot of money by itself, but in the total scheme of things, it is not an excessive sum.

I was prompted to introduce this legislation, like many of us are, as a result of contact with a dear little lady in my district who I have known for some years—indeed, before I came to Congress. She explained the problem to me. Then, once I got into it, I heard from widows all over the United States, a large collection in Florida, as a matter of fact, who were in a sense living in sin with someone because they literally couldn't afford to give up the compensation. I just think this is a small blow for equity, that we can deliver it without undoing the Treasury.

Mr. APPLEGATE. Thank you very much, Bill. I am very happy that you came before the committee to talk about your legislation and we'll be looking forward to seeing it as it comes before our committee for further review.

While you are sitting there, I would like to introduce Mr. Bob McEwen, the ranking minority member of the subcommittee.

Mr. WHITEHURST. We had a very successful journey to the Orient together. It was Bob's baptism and I must say he brought us good charm.

STATEMENT OF HON. BOB McEWEN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF OHIO

Mr. MCEWEN. Thank you.

Mr. Chairman, I would just like to take a couple of seconds this morning to express my appreciation for your scheduling this hearing, and that the individuals involved in these payments deserve the very highest priority consideration of the Congress. This legislation will focus on the compensation payments to service-connected veterans, their dependents, and their survivors.

I don't want to let an opportunity pass again, as I have expressed before in this committee, my deep gratitude to the veterans' organizations for their understanding of the proposal to delay compensation increases for 6 months. This understanding is in the finest traditions of these organizations and of fine Americans, and it shows to the entire country and the world that they are in the forefront of trying to arrive at a strong America.

Mr. Chairman, the hearing this morning concerns a number of subjects of great interest. Our witnesses are all well versed on these subjects and I look forward to hearing what they have to say. Our first witness, Congressman Whitehurst, is a man that has been one of my real heroes in the Congress. His dedication to a strong national defense and service to his country has been exemplary to me as a more junior Member of Congress, and I appreciate his leadership on this issue.

I look forward to working with you, Mr. Chairman, and the subcommittee, to arrive at a position that is one of which we can be proud and of which the American people can be proud. The veterans that we serve have made sacrifices that continue throughout their lives. We have an obligation to them that we are proud to recognize and it's a privilege to, in some small part, say thank you to them. We serve on this committee to do that and it is a high calling.

Thank you.

Mr. APPLEGATE. Thank you, Mr. McEwen, for a very, very excellent statement.

Bill, thank you for appearing before the committee once again.

Mr. WHITEHURST. Thank you, Mr. Chairman, and I thank my colleague for his generous comments.

Mr. APPLEGATE. The Jewish War Veterans are going to submit a statement to the subcommittee in lieu of appearing in person. Their statement will, without objection, be entered into the hearing record.

[The information appears at p. 149.]

Mr. APPLEGATE. Our next witness is a long and old friend, Miss Dorothy Starbuck, who is the Chief Benefits Director of the Veterans' Administration. Miss Starbuck, if you will come forward—I'm sure you know the way. Miss Starbuck, it's always nice to have you before the committee and you may proceed as you wish.

STATEMENT OF DOROTHY L. STARBUCK, CHIEF BENEFITS DIRECTOR, DEPARTMENT OF VETERANS' BENEFITS, VETERANS' ADMINISTRATION, ACCOMPANIED BY NORMAN PAULSON, OFFICE OF THE GENERAL COUNSEL; AND MAX WOODALL, DIRECTOR, COMPENSATION AND PENSION SERVICE

Miss STARBUCK. Thank you very much, Mr. Chairman. Good morning.

I would like to identify for you Mr. Norman Paulson of the Office of the General Counsel, and Mr. Max Woodall, who is our Director of Compensation and Pension Service in the Department.

Mr. Chairman, it is a pleasure to be here this morning to respond to your request that we address a number of programs in the Department which do impact on our compensation and pension programs. I will respond in the order in which you asked that we cover these particular subjects.

The first of these is identified as the Quayle amendment. Historically, in 1981, the Omnibus Budget Reconciliation Act eliminated benefits under the Social Security Act for students and surviving spouses with no children inhouse under age 16. In 1982, the continuing budget resolution contained a section which we now refer to as the Quayle amendment, which provided special benefits similar to those which had been eliminated in the Reconciliation Act. These benefits are payable to survivors of veterans who died of a service-connected injury which occurred or which was incurred prior to August 13, 1981.

This has become a joint undertaking of the Department of Defense, the Social Security Administration, and the Veterans' Administration. Funding is being provided by the Department of Defense, and information necessary to the Veterans' Administration to determine a rate of payment is being provided by the Social Security Administration. The Veterans' Administration is responsible for the administration of this program as provided in the Executive order signed by the President on July 29, 1983.

We have mailed applications to all school children and surviving spouses believed from our records to be possibly eligible for the benefit. These applications went out in July. To administer this program, we have set up a special adjudication unit in the St. Louis regional office and have provided staffing to that office to cover this activity. We asked the Social Security Administration to provide training for these personnel in the social security laws and regulations and procedures which impacted on our processing of these applications.

Early on, before August 1, we made payments to 6,303 children who had been attending uninterrupted educational pursuits from January 1 of 1983, and these were made on the basis of a tape match between VA and the Social Security Administration. Further, in September we paid 4,514 children who indicated to us an intent to re-enroll in school this fall. However, to be eligible for benefits beyond that period, it is necessary that the student provide an application for benefits.

We received from the Department of Defense $22 million for fiscal year 1983 for administration of this bill. These funds cover both the benefit costs and the administrative costs of the Veterans' Administration, as well as the Social Security Administration. We have requested from the Department of Defense for 1984 $41.8 million.

With respect to our activities on annual income questionnaires, this activity, as you know, is to determine the eligibility of a pensioner to continue to receive that benefit on the basis of his or her income received.

We had previously submitted with the November check mailed by the Treasury Department the annual income questionnaire. However, this year the Treasury Department has had to decline that service for us and we are now responsible for the mailing of a separate package to all pensioners on our rolls. For the 1983-84 income questionnaire period, we have created a set of nine questionnaires and separate worksheets which will be provided to our pensioners. We feel that this combination of the worksheet and the questionnaire will be perhaps less confusing and a little easier for the pension recipients to complete.

We are closely monitoring this income questionnaire processing and we are reviewing and evaluating what we are doing this year and determining from that what we should do not only next year but many years down the road to make sure that we have provided to our pensioners the best in instructions that we can.

To assure that we have proper information, we are asking that all income dependent benefit recipients file an income questionnaire during the 1983-84 season. We will review the parents' dependency after this questionnaire processing period has passed.

The next subject you asked that we review is the completed scar review. This was occasioned by regular reviews that we conduct of claims which are adjudicated in the regional offices. It was noted in those reviews that a number of veterans were receiving benefits for tender scars which differed significantly from what would have been expected given the total number of noncompensable scars that we have in records.

We conducted during 1982 and 1983 a review of a total of 76,285 cases having at least one compensable scar, and in 89 percent of those evaluations, the rating current at that date was confirmed. All unprotected cases, which totaled 34,623, were reviewed, and where examinations were considered to be appropriate, they were ordered, as they were for cases in which the evidence to support the rating was questioned.

In 94 cases, the evaluation for a disability was raised, but this did not always result in an increase in benefits payable due to the use of the combined rating table. There were decreases in an individual evaluation in 5,702 cases, but again, this did not always result in a change in the amount of benefits being paid because of the use of the combined rating table.

This review resulted in a reduction of $4.9 million in benefits disbursed, and this review cost the Veterans' Administration in manhours approximately $4.2 million.

You have asked also that we discuss Public Law 97-37, the Former Prisoner of War Benefits Act of 1981. With respect to this, it is our feeling that the Veterans' Administration has taken very positive action on implementation of both the letter and the spirit of this law. We have been working very closely with the Administrator's Advisory Committee on Former Prisoners of War and have implemented a number of the committee's recommendations for improvements in our benefits delivery system. At the request of the committee, we produced and distributed to all regional offices and medical facilities a training film entitled "A Flag for POW's". This was designed to sensitize our employees to the effects of the POW experience, and this film was followed by the publication of a revised program guide on the development and rating of POW claims.

Earlier this year, in concert with the Advisory Committee, the Veterans' Administration developed a new examination protocol for former prisoners of war. This combines an extensive medical/social history questionnaire with a complete battery of both physical and mental examinations. We believe this new protocol will be of great assistance in determining service connection for many disabilities and will provide some satisfaction to the former POW in the completeness of the examination.

On July 1 of this year, all regional offices were asked to offer a new examination protocol on a priority basis to all former prisoners of war whose claims had been rated after the effective date of Public Law 97-37 and who did not receive favorable rating action. This reexamination must, of course, be on a strictly voluntary basis on the part of the former prisoner of war. Reexaminations have been offered to 3,328 such individuals, but since the veteran must decide whether he or she wishes to be examined, we are unable to determine how many of that total will take advantage of this.

The advisory committee has recently submitted its first formal report to the Administrator, as required by Public Law 97-37. The report has been transmitted to the Congress with the agency's comments on the 21 recommendations contained in the committee report. We are implementing those recommendations with which we have concurred.

With respect to the future physical examination study you asked us to cover, I would say that each time a claim is rated, the rating board makes a determination as to whether there is possibility for a future change in a disability. And if such change is likely, the date on which a future examination should be conducted is noted in the rating decision. This future examination control date is to be entered into our computerized master record so that a reminder will be furnished to the regional office on the date set.

Reviews of claims for various reasons in central office, as well as a rather extensive GAO study, showed to us that in too many instances the future examination controls had not been established. We agreed to a review of this and field stations are currently conducting a review of approximately 40,000 cases in which a veteran was released from active duty after 1971, is evaluated at 50 percent or more, and no future examination control is in the computer master record. This review parallels the type of cases which were reviewed by the General Accounting Office. Our interest in this review is to assure that our personnel in the regional offices do, in fact, establish the necessary controls for future date actions.

We expect this review to be completed in about 3 months, but we will not have it concluded because there are a number of examinations that will have to take place. The most important result of this review both by the GAO and by us is that we have amended our target processing procedures to require that a positive or a negative entry in the future data field be made to preclude a recurrence of the oversight which has resulted in these errors of omission.

With respect to our operations in the target system, currently all processing of information necessary to support a payment of recurring benefits may be submitted via target. We are in the process this month of having installed additional master record corrections and expansions so that in the very near future accrued award processing and diary controls processing will be implemented.

We have improvements slated for calendar year 1984. We expect to have some automatic generation of awards in currently running cases by the submission of changed information. Original improved pension awards will also be generated, and printing capability is being added to the system which will provide for a formal award letter, which will be of great convenience to our adjudicators in the field.

With respect to our beneficiaries who reside in the Philippine Islands, the Treasury made a decision that they would close the Treasury Disbursing Center which had provided payment capability to the agency. It was necessary that we in the Veterans' Administration design a new computer system that would provide for payment to these beneficiaries. We have worked very closely with the Treasury Department and the State Department, and there has now been set up a computer system in the State Department in Manila. This computer system to which the regional office has access does create a payment authorization which is shipped to the Treasury Disbursing Center in Austin, Tex. The Treasury there produces the checks and returns them to the Veterans' Administration regional office in Manila for mailing in the Philippine mail system. We will be making our first full payment using this new system the 1st of October.

You asked, also, Mr. Chairman, that I discuss the rating board training. Both the reviews that we have made internally and those that have been made externally, either by the General Accounting Office or our own Inspector General, indicated that we needed training for our rating board specialists. This was conducted. We had four regional sessions in early 1983. We trained a total of 113 participants in those four sessions and they, in turn, have returned to their respective stations providing the benefit of that training to others on rating boards in the regional offices. This was a very profitable session and we plan to conduct further training during this next fiscal year as a part of our overall responsibility to the rating board members.

The subject of dependency and indemnity compensation is one which has undergone continued review almost since its enactment. The most recent study of the program was completed in 1977. The positive and negative aspects of retaining the current basis for payments, returning to a uniform rate or developing some other basis for payment, have all been periodically examined. The latest study concluded that the adequacy of payments was mainly a judgment question which depended largely on the yardsticks employed and that the present payment represented a judicious compromise which, as with all compromises, cannot completely satisfy all recipients of the program.

Responding to the current interest in the dependency and indemnity compensation program, we in the Department are in the process of formulating a study protocol to develop additional information regarding veterans whose deaths are service connected, including the percentage of disability at the time of death. We would emphasize for the committee that any project undertaken would be for the sole purpose of collecting data which would be in addition to that already available to us from other sources.

Mr. Chairman, this concludes my prepared remarks. I would be very pleased to accept any questions from the committee.

[The statement of Dorothy Starbuck appears at p. 35.]

Mr. **Applegate**. Thank you very much, Miss Starbuck.

In a manner of expediting time, because we have quite a few witnesses to appear today, I am going to withhold questions of my own, particularly after deeper review of your statement, and I will be submitting some questions to you that I would appreciate your answering. However, I would just ask one.

You recite the many accomplishments in the POW area, and I note that the statement of the American Ex-POW's still recites instances of insensitivity and failures to resolve reasonable doubt by your rating board. How do you answer that? What are you doing to correct this?

Miss **Starbuck**. Well, we have, of course, provided information to our regional offices. But I would say this, that if there are any cases in which the American Ex-POW's feel that there has been insensitivity in response, or a lack of appreciation of evidence that has been accumulated, I would be more than happy to receive those cases in Central Office for our review and corrective action.

I believe that we have, by the designation in each of our regional offices—and sometimes this is the only rating board—but we have stressed to them the importance of an appreciation for the situation of the former POW. In offices where there is more than one rating board, there is a board that is responsible for the rating of former POW cases. There is responsibility on the part of the adjudication officer or his or her assistant to review that rating before it is promulgated, so that there is assurance that sensitivity does exist to the POW experience.

Mr. **Applegate**. Thank you, Miss Starbuck.

The gentleman from Ohio, Mr. McEwen.

Mr. McEwen. Thank you, Mr. Chairman. I will follow your lead as to submitting these questions so that we may hear our other witnesses. But, as always, let me begin by saying to Miss Starbuck that the record is replete with expressions of appreciation for your service to the Veterans' Administration by members of this committee and I associate myself with those remarks immediately and always appreciate your coming.

Miss Starbuck. Thank you, Mr. McEwen.

Mr. McEwen. I might add that as the new inflation figures were being calculated earlier this year, and as you came in to express the readjustment as to what the increases might be this fall, I remember the aplomb with which you endured and observed the barrage of the committee. This has endeared you to me as a good example for years ahead. I don't know how you do it so gracefully, but yet I respect you for it.

Miss Starbuck. Thank you, sir.

Mr. McEwen. Two quick thoughts. Do you have a cost estimate on Mr. Whitehurt's bill to continue compensation payments to widows that remarry after age 60?

Miss Starbuck. The bill has been submitted to the agency for comments. The comments have fairly well been finalized. We would make our comments from the Department to Norman Paulson, of our General Counsel. Whether they have reached the Administrator at this point, I don't know. Have they, Norman?

Mr. Paulson. As of yesterday they were in the General Counsel's office.

Mr. McEwen. These calculations must then require the input of a lawyer, is that correct?

Miss Starbuck. Well, the General Counsel provides liaison for the Department——

Mr. McEwen. I understand.

Miss Starbuck [continuing]. And processes our comments through the Office of Management and Budget on new legislation.

Mr. McEwen. Forgive me; surely.

There was something you mentioned briefly in your testimony, that the Treasury Department has discontinued the enclosure of the questionnaires in the November checks. Would you elaborate on that?

Miss Starbuck. The Treasury Department, like most all Federal agencies, has suffered some reduction in resources. This, I think, is leading eventually to the Treasury Department's intent to go to a paper check, which is less costly to produce and would not lend itself in the mailing process to any insertion of documents. Treasury asked that we not plan for this year's mailing the income questionnaire with the November check. But this is purely a cost savings for the Treasury Department. We will, of course, absorb that cost within our own general operating expenses and mail these questionnaires from our Philadelphia regional office.

Mr. McEwen. Were you consulted, or was this a "fait accompli" that was presented to the Veterans' Administration?

Miss Starbuck. It was pretty much a "fait accompli," as was the Manila decision. It tests our reaction processes.

Mr. McEWEN. Does this cause any concern at the Veterans' Administration?

Miss STARBUCK. It was always a very convenient thing for us to be able to develop a questionnaire. But there is an advantage to us this year in that it has really given us the opportunity to develop a better set of instructions for our pensioners. It has allowed us to provide each of them a worksheet. The instructions take them through that worksheet, and also provide them the income questionairre.

This would probably have been, for the Treasury Department, a very difficult insert operation, because we are attempting to give our pension beneficiaries greater information. So it has some good and some bad.

Mr. McEWEN. I just want to say, if you want any assistance on that with Treasury, I think many of us would be more than willing to help.

Miss STARBUCK. No, I think, with what we're attempting in the pension program, to provide to our recipients the simplest, the most direct instructions, the possibility of using the worksheet, that we will really in the future elicit the exact information that we need from them.

Mr. McEWEN. I have a couple more quick questions.

Can you furnish for the record the number of veterans who have received increased compensation as a result of the new Prisoners of War Act, Public Law 97-37?

Miss STARBUCK. I would be pleased to.

[Subsequently the Veterans' Administration furnished the following information:]

A review of the 7384 rating decisions received in VA Central Office during the period from October 1, 1981, to July 1, 1983, revealed that 3334 former POW's have received an increase in their compensation since the effective date of Public Law 97-37. We anticipate a significant increase in that number as more former POW's take advantage of the new examination protocol that was developed in response to an Advisory Committee recommendation. We are currently revising and expanding our computer data base to provide more detailed information on the adjudication of former POW claims.

Mr. McEWEN. And second, have you had the opportunity to read the statement by the American Ex-Prisoners of War?

Miss STARBUCK. I have not had an opportunity to read that, Mr. McEwen.

Mr. McEWEN. Is there a possibility you could respond to the criticism that the American Ex-Prisoners of War have made, that your Department does not give adequate consideration to ex-POW cases with respect to missing or nonexistent medical records, acceptance of lay evidence, or with respect to the benefit of the doubt being given to these veterans?

If you would prefer to submit that, feel free.

[Subsequently the Veterans' Administration furnished the following information:]

The doctrine of reasonable doubt as set forth in 38 C.F.R. § 3.102 allows the expression of a rating board's collective judgment that the available evidence in an individual case is so evenly balanced on a given issue, generally the issue of service-connection, that it neither proves nor disproves the claim. When such a doubt arises, it is to be resolved in the veteran's favor. In the case of a former prisoner of war the lack of medical records covering the period of internment requires careful review of the probative value of secondary evidence, including lay statements, to determine if a reaonable doubt exists as to the issue of service-connection in light of recognized medical principles and the known hardships of the POW experience. As in all judgmental decisions, it is possible for reasonable individuals to differ as to the probative value of secondary evidence, but this does not mean that the doctrine of reasonable doubt is not being applied.

Miss STARBUCK. I would be pleased to. But generally, I would prefer that, if there are instances which are supportable of those allegations, I would like very much to have the opportunity to have our staff review those cases.

I recognize that everything that we do in the Department is not going to please everybody, and in many of these cases, there is an application of judgment. One person's judgment may not necessarily jibe with another's. It's a little difficult to impose another person's judgment in a case. However, if in the review of any specific cases which the organization would like to refer to us we do find that there is a lack of appreciation, or even a lack of consideration, we will be pleased to correct that.

Mr. MCEWEN. Thank you very much. I just wanted to emphasize that there are many of us that are very sensitive about this issue. We recognize the difficulty the Washington office has in communicating that sensitivity down to those with whom the local veteran encounters, and we want to assist you in that effort if at all possible.

Miss STARBUCK. Thank you.

Mr. MCEWEN. Thank you, Mr. Chairman.

Mr. APPLEGATE. Thank you, Bob.

The gentleman from Mississippi, Mr. Dowdy.

Mr. DOWDY. Thank you, Mr. Chairman, and I want to thank Miss Starbuck for being here this morning. I appreciated the comments on the Quayle amendment and the work that you have done there.

Do you plan to have the work on the Quayle amendment kept in St. Louis on a permanent basis?

Miss STARBUCK. It will not be kept there on a permanent basis. We have had to establish that special payment system to take care of an early demand. Our people in the Department are working toward the establishment of an award system that will go into our central computer system, so then we will be able to process those awards in each of our regional offices in the future.

Mr. DOWDY. Do you have any timetable?

Miss STARBUCK. I would say probably we are looking at perhaps a year.

Mr. DOWDY. And can you elaborate for us about the delay in payment of the adjustment checks this month?

Miss STARBUCK. I don't know—In this month or September?

Mr. DOWDY. Yes.

Miss STARBUCK. Are you referring to a delay in payment of retroactive adjustment? OK.

In June of this year, the Department determined that it would be necessary that we ask for a supplemental appropriation in the compensation and pension and the readjustment benefit programs in order to meet our responsibilities for the issuance of checks through the end of September. A request for approval of action to go ahead requesting a supplemental went to the Office of Management and Budget. It was their judgment that at that time we did not need the supplemental.

We continued to review as our payment cycles went on and again approached the Office of Management and Budget through our comptroller. At this time we had them convinced that we did, in fact, need the supplemental.

However, we had reached such a point in time that we felt it would be risky for us to believe that possibly the supplementals would be appropriated and in our hands in time for us to continue payments as usual and still assure that everyone who was entitled to a check on the 1st of October got that check. That constitutes a population of about 5 million recipients.

In a management decision, we decided that in certain cycles, in both the compensation and pension program and in the education program, that we would withhold the payment for a time of retroactive benefits in order to assure that persons entitled to a check on the 1st of October received it.

The supplemental appropriation is working its way through the Congress, and if that money is made available to us this month, we will, if we can in our processing timeframe, release all of those retroactive checks which have been delayed. If the money is not available to us in time, we will immediately, after the 1st of October, run those compensation and pension retroactive payments and release those checks very early in October.

Mr. DOWDY. That's all I have.

Thank you, Miss Starbuck.

Miss STARBUCK. You're welcome, Mr. Dowdy.

Mr. APPLEGATE. Thank you, Mr. Dowdy.

The gentleman from Ohio.

Mr. MCEWEN. Thank you, Mr. Chairman.

Miss Starbuck mentioned an interest in particular cases. I would like to just commend to you the testimony by the American Ex-Prisoners of War this morning, beginning particularly on page 4.

Miss STARBUCK. I will read that very carefully, Mr. McEwen.

Mr. MCEWEN. Thank you very much.

Mr. APPLEGATE. Mr. Burton.

Mr. BURTON. I have no questions, Mr. Chairman.

Mr. APPLEGATE. Again, thank you very much, Miss Starbuck. While we may have differences at times, members of the committee and members of the veterans' organizations, I say that there is no one that appears before this committee that is held in higher esteem than you by the members of the committee. We always appreciate your gracing our committee with your presence.

Miss STARBUCK. Mr. Chairman, thank you very much.

Mr. APPLEGATE. Because of the large number of witnesses that we have today, they are going to appear in panels. I would ask that each of the panel members confine their oral remarks to 5 minutes, at the end of which there may or may not be questions from members of the committee. There are several panels with a number of people who do want to testify before the committee and we are anxious to hear what they have to say, and we want to do it within the most expeditious timeframe as possible.

The first panel that we have is made up of Mrs. Geraldine Chittic[illegible], who is chairman of the National Legislative Committee of the

Gold Star Wives of America, and Mr. Richard W. Johnson, national legislative director, Non-Commissioned Officers Association.

I would yield to Mr. Wayne Dowdy for the introduction of Mr. Derrington, the national commander of the American Ex-Prisoners of War.

Mr. Dowdy.

Mr. DOWDY. Thank you very much, Mr. Chairman, for yielding and for giving me the honor of introducing a personal friend to the committee. He is Earl Derrington, the National Commander of the American Ex-Prisoners of War, taken prisoner during World War II at the Battle of the Bulge. He is a very successful businessman in my district and I thank the Chair for giving me the opportunity to recognize and introduce him.

Mr. APPLEGATE. Thank you, Mr. Dowdy.

The panel may proceed as you wish. We are anxious to hear your testimony.

STATEMENTS OF GERALDINE B. CHITTICK, CHAIRMAN, NATIONAL LEGISLATIVE COMMITTEE, GOLD STAR WIVES OF AMERICA, INC.; C. EARL DERRINGTON, JR., NATIONAL COMMANDER, AMERICAN EX-PRISONERS OF WAR, INC.; AND RICHARD W. JOHNSON, JR., NATIONAL LEGISLATIVE DIRECTOR, THE NON-COMMISSIONED OFFICERS ASSOCIATION OF THE UNITED STATES OF AMERICA

STATEMENT OF GERALDINE B. CHITTICK

Mrs. CHITTICK. Thank you, Mr. Chairman, and members of the committee. Gold Star Wives appreciates the invitation to participate in this hearing and we thank you for the privilege of addressing our remarks to the dependency and indemnity compensation program.

Our prepared statement did not address any specific existing legislation, but I would like to comment that the Gold Star Wives of America supports H.R. 433 as presented this morning by Congressman Whitehurst.

Our statement sets forth the resolution as adopted at our national convention, and I would like to take the opportunity to use my oral remarks to acquaint the committee and those attending of the uniqueness of the organization of Gold Star Wives of America.

We do appreciate the concern and efforts of the numerous veterans' organizations in making recommendations regarding the compensation program as it affects the service widow. However, just as each of them has a major classification enabling its members to share a common bond, we are convinced that only a Gold Star widow can understand the problems of another service widow.

Gold Star Wives of America would like to be recognized for who and what we are. Our organization represents widows and children who have specific problems, concerns and needs not alined with those of any other citizens of this country. We are thankful that the members and staff of the Veterans' Affairs Committee do not confuse Gold Star Wives with Gold Star Mothers. We long for the time when the term "Gold Star" can be spoken without the listener automatically thinking mothers. Gold Star Wives of America is honored to be jointly recognized with the American Gold Star

Mothers, but let us point out that there is no comparison between the problems and needs of Gold Star Wives and their children and Gold Star Mothers, other than the grief and loss of a loved one.

Upon the loss of a husband, the widow is immediately called upon to assume a totally different way of life as a single person, assume the head of a household and be the total parent of fatherless children. And yes, some of our members are also Gold Star Mothers.

Gold Star Wives' membership is totally comprised of widows whose compensation is scheduled for review at this time. Therefore, in anticipation of this, a resolution setting forth the recommendations of our organization was adopted at our 38th Annual National Convention on July 2, 1983. Our total resolution is in the statement and I would just like to give here the recommendation that we had:

That a flat base rate be readopted—as in 1956 to 1969—providing all widows an equal base pay, plus a set rate based on rank and length of service, with the cost-of-living adjustments being applied only to the base rate. In this manner, we feel the gap would not continue to become greater and greater, as it does under the present system.

I thank you.

[The statement of Geraldine Chittick appears at p. 48.]

Mr. **Applegate**. Thank you.

Mr. Derrington.

STATEMENT OF C. EARL DERRINGTON

Mr. **Derrington**. Mr. Chairman, I would like to request the privilege of standing, please, sir.

Mr. **Applegate**. Yes, certainly, as you wish.

Mr. **Derrington**. Thank you very much, sir.

I am Earl Derrington. I am commander of the American Ex-Prisoners of War for the United States. To begin with, in introducing myself, I would also like to introduce some of my fellow POWs who have come along with me this morning. I would like to ask each of you to stand, gentlemen. Every POW in this house, stand. [Applause.]

Mr. Chairman and members of this committee, we are most honored to appear before you here today. We probably are one of the most unique groups that will come before you, because we have several problems that you, in your capacity and in your great responsibility to the American public, will have to make a decision on.

I would like to say this. This group of people that we represent here today are one of the most patriotic, loyal groups of veterans that are in this country. I would like to tell you why.

No. 1, we paid the price over and beyond the call which is called for for most people. We paid the price when we laid down our arms and we began to fight with that which we had left—and that's nothing. I don't know how you gentlemen would feel to be shot at and not have a gun to respond with, but we prisoners of war, every one of these gentlemen and the other 90,000 that are still living in the United States, have had the experience of being absolutely defenseless and helpless to fight back, when you fight back with only your mind. Sometimes that's not enough.

Gentlemen, for the past 40 years the prisoners of war of this country have had a battle in attempting to make the Congress or help the Congress be aware of the fact that we, as prisoners of war, did not have the computers available to the Veterans Administration. We did not have the records available. The prison camp people that run the prison camps, they weren't interested in making documented evidence for we prisoners of war. But yet today we prisoners of war are asked to come back, and we are asked to file our claim, and we are asked to document this evidence. We were lucky to bring our skins out, much less a documented report.

Think about that a little bit. Think of the frustration that you would have if you were asked to produce medical records from prison camps and such as this to file a claim. Yet, when you read a veteran's file, it is paper and print. But we cannot produce this.

This Congress, in your wisdom, under Chairman Montgomery, a couple of years ago, and the Members of this Congress, put into law, Public Law 97-37. The wisdom of this was to take care of the medical benefits first. The intent, we thought, was to give the benefit of doubt to the prisoners of war.

Also, the Congress put up the POW Advisory Committee, and this Advisory Committee has just completed its report. The contention in this final report, after all this time, is really evidence of record and benefit of doubt.

I'm sorry, but my time has run out. There is so many things I would like to tell you and I have no intention of going on. But, gentlemen, we appeal to you as human beings, to take an honest, hard look at the problem of the prisoner of war.

Thank you, sir.

[The statement of C. Earl Derrington appears at p. 50.]

Mr. APPLEGATE. Thank you very much.

Mr. Johnson.

STATEMENT OF RICHARD W. JOHNSON

Mr. JOHNSON. Thank you, Mr. Chairman.

NCOA is grateful to the committee for its continuing interest in providing adequately for disabled veterans and their survivors. Additionally, NCOA is grateful for this opportunity to present its views on improvements and modifications in these programs.

Rather than attempting to cover all the issues discussed in my prepared statement, I will limit my summary to two areas of great concern—the distribution of disability compensation benefits, and the structure of the DIC program.

Compensation payments to veterans currently range from $62 monthly for those rated at 10 percent disabled, to $1,213 monthly for those rated at 100 percent disabled. The percentage of change in benefits between the gradations descends from 83.9 percent to 12.5 percent between the 10 and 90 percent disabled. That is to say, a 20 percent disabled veteran receives 83.9 percent more in monthly benefits than the 10 percent disabled veteran, and the 90 percent disabled veteran receives 12.5 percent more in monthly benefits than the 80 percent disabled veteran. However, the difference in benefits between the 90 percent and 100 percent disabled veterans is slightly more than 66 percent.

This inversion seems inordinate to NCOA and we recommend a prospective targeting of cost-of-living increases to provide a more balanced compensation scale.

The structure of the dependency and indemnity compensation program has been a subject of NCOA's testimony for several years. In the past we have discussed the many inequities of compensating survivors on the basis of the veteran's military rank at time of discharge or death. Survivors of similarly disabled veterans may receive substantially different payments. Survivors of military personnel killed in a common action may receive substantially different payments, not based on the deceased's years of service or actual earnings, but based on a scale developed almost 25 years ago. That scale has never been adjusted to reflect changes in military compensation. Benefits paid to the survivors of nonrated personnel and junior noncommissioned and petty officers are still based on conscription wages abandoned by the Armed Forces in 1972.

Since then several other realinements of military pay have totally destroyed the relationship that once existed between military pay and DIC benefits. As a result, these benefits now range from well below poverty level at $5,340 annually, to more than $13,600 annually.

Mr. Chairman, we believe that it's time for the Congress to define the level of benefits the DIC program should provide. Hopefully, you will conclude as we have, that a flat rate system of providing a reasonable indemnity compensation to all survivors is most appropriate. In any event, we encourage the committee to examine the many options that are being proposed.

That concludes my statement, Mr. Chairman. I do ask that my entire statement be entered in the record.

Mr. APPLEGATE. And it shall be, Mr. Johnson, without objection. All of your statements will be entered into the record.

[The statement of Richard W. Johnson appears at p. 69.]

Mr. APPLEGATE. I certainly want to thank each of you. Understanding your concerns, the DIC program will be looked into very thoroughly, to be made to work better to the advantage of the veteran and the widows and the children, so the committee will be looking into that very much to see how the program can be improved.

Mr. Derrington, I would say that there is a tremendous feeling for the prisoners of war of this country, I think from everybody in America, and particularly from this committee. I would say, too, that if there is any individual cases or anything that you consider to be in error or wrong, to submit that and take Miss Starbuck up on her offer, that she would be very happy to look into any errors that you may see that there is in the program, either in a general case or on any individual cases. I would submit that you do that.

Mr. DERRINGTON. Yes, sir, we will be happy to.

Could I make a comment, sir?

Mr. APPLEGATE. You sure can. Go right ahead.

Mr. **Derrington**. We have a problem, sir, and by no means do we, as prisoners of war, intend to take anything away from the integrity of the Veterans' Administration. These people are very dedicated and they are very conscientious in what they do. So we have nothing but praise for their approach and the integrity with which they approach it.

We do have a problem, though, with the benefit of doubt. I would like to tell you right now a typical example of the benefit of doubt proposition.

Number one, the Veterans' Administration has done a beautiful job preparing a film called The Flag. This flag film is to make the Veterans' Administration aware of the POW problem, which is fine. But at the end of the film, it comes around to the fact that it's encouraging the VA personnel to give the benefit of doubt to the POW. Without evidence of record, there is no benefit of doubt, sir. This is a problem that we have. The medical records, the research that has been done, all of this comes around—and the consensus of the medical people on the advisory committee has been rebutted. They are a consensus of medical opinion and they are recommending the fact that there is enough evidence to justify benefit of doubt.

But yet, the system of the Veterans' Administration—and we respect it—it does not allow for the problems of the prisoners of war.

Thank you, sir.

Mr. **Applegate**. Thank you, Mr Derrington.

The gentleman from Ohio, Mr. McEwen.

Mr. **McEwen**. I would just express my appreciation for your testimony as weil, and the sensitivity that you bring to our committee. Earl, it is always good to see you. I had hoped to be invited to your Cleveland convention, but nevertheless, maybe one of these days I'll be able to be with you. Let me say that you present your problem very well and we are extremely sympathetic.

Let's take it one step further. How do we resolve it?

Mr. **Derrington**. Thank you, sir.

I don't have the answer totally. We must respect the system that the Veterans' Administration has always used, so we're not trying to do that. But some kind of way, there needs to be—under house bill 1100, Public Law 97-37, they put it in a separate category in order to give the medical attention to our prisoners of war in the hospital. I don't know if our compensation situation for damages that were actually received as a result of having been a prisoner of war or as the result of the ongoing domino effect, if you please, needs to be put in some separate category so that the integrity of the Veterans' Administration be maintained. It must be maintained. We realize that. But we have the unique problem that I don't believe any other group of people have in this respect.

Mr. **McEwen**. Thank you.

Thank you, Mr. Chairman.

Mr. **Applegate**. Mr. Dowdy.

Mr. **Dowdy**. Thank you, Mr. Chairman.

I want to thank all three of you for your very informative statements.

I wanted to ask Mr. Derrington, when your time expired, you were alluding to Public Law 97-37 and the provisions of that law, and were getting ready to elaborate on the problem as viewed by your organization. I think you were discussing, as I recall, the report of the advisory committee and then the VA's response to that.

In reading your statement, I, too can sympathize with what you're saying. As I understand Public Law 97-37, it required the benefit of a doubt. And yet in response to the advisory committee, the VA said—and I quote—"Resolution of reasonable doubt is applicable to individual fact situations."

Would you care to elaborate on that? Is that what you were referring to at the time?

Mr. DERRINGTON. Yes, sir. Basically, the facts of each of these gentlemen that are represented here will be different. Do you understand what I'm trying to say? The situation, the mental duress that a person was under at the time of interrogation and capture for each person may be different. The end result of this ongoing mental situation over the period of years will be different for each one of the POWs.

So it does not fit a set pattern. Everybody is different and they have to be judged on an individual basis. But at the same time there are certain facts that are evident with reference to certain theaters, certain living conditions, and these things that are exist. There are certain patterns that have been established in the medical community that run heavier among prisoners of war, even to the different areas and different theaters.

So this type of evidence, which should be reasonably—In other words, when this is adjudicated, these types of things are not accepted in taking into consideration an individual case.

For example, the tuberculosis situation in the camps, in the Japanese area. OK, the statute of limitations I believe is 2 years on this sort of thing. When a prisoner of war came from Japan and they went on the drinking sprees or the religious sprees or whatever kind of sprees we went on when we got back home, 2½ years—all of the people that died from tuberculosis in the camps, 2 years and a half they come back and they're not covered under the statute of limitations. But their exposure to tuberculosis, whether it be as a result of trying to drink all the whisky in the country for the first year or two, I can't say. But there were those cases that had tuberculosis when the time frame didn't fit.

Do you understand? This is a very difficult problem to explain. It is real difficult, and I appreciate your interest. But it's a difficult situation to explain.

Mr. DOWDY. Thank you very much.

I yield back the balance of my time.

Mr. APPLEGATE. Thank you, Mr. Dowdy.

Mr. Burton?

Mr. BURTON. Thank you, Mr. Chairman.

I would just like to know if you could supply, Mr. Derrington, the committee with some specific cases of where you think the benefit of a doubt has not been given these POW's. If you could give those to us, maybe we could get some sense of what you're trying to convey to us today. If you had maybe 10 or 12 or 15 or whatever number of POW's that maybe didn't receive the benefit of the doubt from the VA, maybe we could look into them and possibly solve some of those problems.

Mr. **Derrington**. Sir, I would like to refer you back to the POW Advisory Committee, which this Congress established and has been ongoing for 18 months now. The first recommendation of the POW Advisory Committee, I would like for you to go back and take this first recommendation that they made, and then go back and take the VA rebuttal on this.

Yes, I will do what you say.

Mr. **Burton**. Thank you.

Mr. **Applegate**. Thank you, Mr. Derrington. Any information that you have, if you wish, you could send it to the committee here and we will see that that's distributed.

Let me once again thank you very, very much for appearing before the committee. Your testimony will ultimately be very important to us in our considerations as we deal with some of these very difficult issues, some of those that have been ongoing, and trying to create marketable situations. Thank you very much for being here.

Mr. **Derrington**. Yes, sir.

Mr. **Johnson**. Thank you, Mr. Chairman.

Mr. **Applegate**. Our next panel will be made up of Mr. Ellsworth Sharpe, immediate past national president of the Blinded Veterans Association; Mr. Max Beilke, legislative counsel of the National Association for Uniformed Services; and Mr. John Heilman, national legislative director of the Disabled American Veterans. If you will take your positions at the table, in one moment we will get to you.

At this time I would like to introduce Mr. Dan Burton, a member of the committee, who is going to have to leave but would like to acknowledge the presence of Mr. Bob Moran, who is going to appear on a later panel.

Mr. Burton.

Mr. **Burton**. Thank you, Mr. Chairman.

I am very pleased to welcome Bob Moran to our committee hearing today. This is his first appearance before the committee. He is from Evansville and he represents the National Paralyzed Veterans of America. He has been affiliated with them for 10 years and is now the associate legislative director. We really appreciate your being here and it's nice to see a fellow Hoosier at our committee hearing.

Thank you, Mr. Chairman.

Mr. **Applegate**. Thank you, Mr. Burton.

The panel may proceed as you wish, remembering, of course, that we do have a 5-minute rule. After the testimony has been given, there may or may not be some questions or observations that will be made. You can choose between the three of you on how you want to proceed.

Mr. Sharpe.

STATEMENTS OF ELLSWORTH L. SHARPE, IMMEDIATE PAST NATIONAL PRESIDENT, BLINDED VETERANS ASSOCIATION; MAX J. BEILKE, LEGISLATIVE COUNSEL, NATIONAL ASSOCIATION FOR UNIFORMED SERVICES; AND JOHN F. HEILMAN, NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

STATEMENT OF ELLSWORTH L. SHARPE

Mr. SHARPE. Thank you, Mr. Chairman, and fellow members of the subcommittee. First of all, I would like to say we will talk today about inequalities in compensation and survivors' benefits. However, I don't want you to think we have forgotten about some of the inequalities that in the past, particularly last year and this year, you have helped to do away with. These include last year's bill in which totally blinded veterans without light perception were moved to paragraph (n) of the compensation schedule. Also, amputees who were also blinded veterans were more adequately compensated.

This year a bill has been approved by the House committee and another one, which is less generous, has gone through the Senate Committee on Veterans' Affairs, having to do with blinded veterans who also have a hearing loss. There is likely to be a conference between the Senate and House committees and we hope you will convince them that a hearing loss combined with blindness is a severe condition. You did not include everything that we believed should have been included, but most everything. The Senate has included some things you have left out. Hopefully, you can get together and include all the things which we think are important.

I want you to remember that a veteran with a hearing loss rated by the VA at 20 percent picks up only half of normal conversation. If you're a blinded veteran, you can't lip read or use other visual clues that could help you make up for such a hearing loss. Therefore, your conversational communication is severely limited. The 20 percent rating for hearing disability is not at all compensated when combined with blindness. You just get compensated for the blindness.

A 10 percent hearing loss means total loss in one ear. A complete hearing loss in one ear is severe for a blinded veteran. For example when crossing the street a blinded veteran's sense of hearing gives him an idea as to the direction in which cars are coming. If he's only hearing in one ear, then, traveling across the street is a great hazard. I hope you will consider this when you're dealing with the Senate.

I would also like to discuss survivors benefits—DIC. Most of the groups seem to have something different to say about DIC. We, for years, have supported the fact that the survivors of a disabled veteran should not be paid 20 or 40 years after he is disabled based on his rank. We do not believe this is relevant to what his income would be. However, I am going to propose that the veterans' organizations meet—and I'm going to try and arrange a meeting—so we can come up with a united front and make a proposal to you early next year that we can all support and hopefully you can support. This proposal might provide a widow with several choices. This is not unusual. Pension people presently have several choices.

Also, when being retired from the service, you have your choice of retirement pay or VA compensation. So having a choice is not new for the system.

An inequality in the compensation system specifically affecting blinded veterans is the rating of visual of field loss and visual acuity. You could equate them with quality and quantity—acuity being quality and quantity being field. Hopefully you're all familiar with that, that a 10-percent field means you're seeing 10 degrees where normal people would see 180 degrees.

Now, this isn't 10 over 180 or one-eighteenth of normal. It is really 10 squared over 180 squared because you're seeing in two dimensions. Therefore, it is less than .3 percent field. These people now are only compensated at 90 percent. However, the VA presently rates someone with both losses on the greater of the two without any consideration of the other. So, even though you might be seeing 10 percent, you might be seeing reduced vision. In that 10 degrees you would, in effect, have reduced vision, perhaps legally blind, or almost legally blind. Yet you would be getting paid just the 90 percent. We think the combination should be considered.

Also, we believe the disability of blindness is severe and we believe that a totally blinded veteran should be compensated under (r)(1). This is because we realize that all veterans being compensated under aid and attendance do not use the money for someone to watch them. Blinded veterans have other expenses, such as menial house chores, maintenance of their house, and even cutting the lawn. We need readers and also we need drivers. Transportation is a big problem that this money could be used for by the veteran in such a manner.

Thank you very much.

[The statement of Ellsworth Sharpe appears at p. 78.]

Mr. **Applegate**. Thank you very much.

Mr. Beilke.

STATEMENT OF MAX J. BEILKE

Mr. **Beilke**. Thank you, Mr. Chairman. I appreciate the opportunity to express the views of NAUS on this subject.

My statement covers but three subjects—the basis for DIC rates, future adjustments to DIC rates, and the remarriage of DIC widows after age 60. On the basis of DIC rates, and the people I have heard testify today and the people that I have talked to in relation to this subject, I have found no one who was talking about really an increase in the funds. We're talking more to the redistribution of the budget funds that are available.

There are many who fear a disinterest if increases for the DIC program become automatic. However, each year in the past, this committee has held at least one hearing on DIC, and most of the time two hearings. I think this testifies to your interest in the subject and the importance you place on the issue. I also believe it would be very close to being foolhardy if you think the people who are witnesses here today would let this committee forget the DIC program and compensation.

The final subject that I want to cover is the remarriage of DIC widows after age 60. This is a subject, a position that NAUS has supported for many years. My reasons I believe are well outlined in our statement.

Once again, Mr. Chairman, I want to thank you for the privilege of being here and I congratulate this committee on holding hearings on this subject.

[The statement of Max Beilke appears at p. 89.]

Mr. APPLEGATE. Thank you very, very much for your very indepth testimony. Again, it is very important to us, and we will continue to hold these hearings and we will continue to listen with the idea that, while we don't think the laws are terrible, they perhaps from time to time do need upgrading. We will be looking at them continuously.

We will next hear from Mr. Heilman.

STATEMENT OF JOHN F. HEILMAN

Mr. HEILMAN. Yes, sir. Thank you, Mr. Chairman.

I will summarize my prepared remarks. I know they will be placed in the record.

The first part of my statement I will not get into. It dealt with the history of the service-connected benefits in this country and the current compensation and DIC programs and their benefit rates.

Another subject that I did address was the reviews that are currently being conducted, or have been conducted, or that are proposed to be conducted by the Veterans' Administration. Let me say the DAV has no objection to the VA turning a critical eye on its programs. Indeed, they have the responsibility to do that, to insure that they are properly managed, that fraud or abuse is not present, and that benefits are being distributed according to law and regulations.

However, we are concerned for several reasons on these reviews. First, we are concerned by the fear and unrest and confusion that exists among the veteran population concerning these reviews. Veterans are aware of the economic difficulties that our country is in, the rising Federal deficits and the desire to cut back Federal spending. Other reviews, principally Social Security Administration reviews, are ongoing, and they quite frankly fear that their benefits are going to be reduced or eliminated. We believe that reviews should be conducted but only when there is substantial prima facie evidence to indicate that reviews are necessary, that there is something wrong with the program, and that there is an indication of a significant cost savings for the Government.

We are also concerned that while these reviews might be initiated by VA's Central Office for the justifiable reasons I just alluded to, we're concerned how these reviews are perceived out in the field by the local VA regional offices in terms of what they're really being asked to do. Quite frankly, we believe perhaps the local stations might have a perception that they are being given a directive to find ways to save money, to reduce benefits.

As an example of that, earlier Chief Benefits Director Starbuck alluded to the current ongoing review, the one where they're looking at the cases of veterans discharged since 1971 who have a 50 percent or higher rating, where there is no indication of a future exam that has been set in the master computer. It is our understanding that the direction given to the field stations is, of course, to pull those claims folders and to examine them, and if, in fact, a routine future has been put into the folder, of course, they are going to insure that that examination is conducted. Where there is no indication that the last rating board indicated an examination was necessary, no further action is to be taken.

Well, we're getting indications from our national service officers that in the latter instance, where an examination was not requested, these cases are being reviewed by the boards and in some cases 2507's—that's an examination request—are being put in the record. This is not, to our understanding, in accordance with the directives that have gone out, an example of overzealousness on the part of the field stations. We bring this to your attention and we hope the subcommittee will monitor this type of activity.

The rest of my testimony does touch on the DIC benefit program. Our most recent national convention has given the DAV a mandate to seek legislation that would put into effect a more equitable benefit payment formula for DIC recipients. Currently there are 23 separate DIC payments, and, of course, they are based on the rank of the serviceman. Aside from the measure of financial security that DIC benefits obviously extend to beneficiaries, the rank-based formula, I believe, is supposed to compensate survivors according to their standard of living or their lifestyle that existed at the time of the veteran's death. Well, we believe, if that's true, the current formula does not take into account such things as percentage of disability rating at time of death that the veteran may have had for years and years. In terms of a post-service death that certainly probably affected family income.

We do not perceive that there exists very different lifestyles between a private, a Pfc. a sergeant, a captain, or a major. Therefore, we do think review is necessary. We understand that data is being collected. Our mandate is flexible and we shall certainly work with the committee and other interested parties to hopefully come up with a beneficial proposal.

Thank you.

[The statement of John Heilman appears at p. 99.]

Mr. APPLEGATE. Thank you, John. You always have worked with the committee and I appreciate your testimony. You gave some very excellent points. I thank each of you for your input and your testimony.

I was going to ask one question for Mr. Beilke. You had referred to the redistribution of funds available, if you just tell me a little bit more about that.

Mr. BEILKE. Well, I have really heard no one say that we want an increase in DIC rates for the compensation, which would reflect an additional budget item for greater funds, to where we would have to go to the taxpayers for more money. I think what I have heard everyone saying—and this is what we believe—is that within the funds available present, if they are redistributed in a more equitable manner, without placing a greater burden on the budget, this is what we're really seeking.

Mr. APPLEGATE. Of course, as you realize, when you do that, it means you have to take from one to give to the other in order to create the equity. You run into a lot of problems.

Mr. **Beilke**. To some extent. But I also would like to believe that within a period of time the amount of money that is spent on DIC will drastically reduce. I realize we've got a few new people coming on board, out of Lebanon and a few other places, but hopefully, if this country stays strong, and we can stay in a relative state of peace, our DIC costs will go down.

I don't believe anyone here would feel slighted or disheartened if the DIC cost was totally eliminated for that reason.

Mr. **Applegate**. Yes, I can agree with you on that. I think we all hope and pray for that ultimately.

The gentleman from Ohio, Mr. McEwen.

Mr. **McEwen**. I just join in your comments and the expression of appreciation for the testimony this morning, Mr. Chairman. It is always good to have Mr. Sharpe, and Mr. Heilman has underlined again our commitment that our first priority is to the service-connected veteran, and that we continue to do all that we can for he or she. I appreciate their assistance this morning.

Mr. **Applegate**. Thank you, Bob.

Our legal counsel does have a question he would like to ask. Mr. Moon.

Mr. **Moon**. Mr. Heilman, I would like to clarify one point here. Are you saying that if a rating board had earlier, in a rating decision, ruled that the disability was static, with no future examination required, that they have interpreted this policy review to say they must look at that case again, even though they had earlier decided that it did not need a future examination?

Mr. **Heilman**. Yes. I'm saying in some claims folders, where no routine future was set by the last rating board—and our understanding is, therefore, no action was to be taken because control had not been lost--that these cases are being reviewed and that in some instances 2507 examination requests are being issued. Our belief is that that's contrary to the directions they received from Central Office.

We are obtaining documentation on those instances and we would be glad to provide them to the VA and to the committee.

Mr. **Moon**. I would earnestly suggest that you pursue that aggressively with the VA, and if you cannot resolve it there, then you might have some discussions with the committee or the staff.

Thank you, Mr. Chairman.

Mr. **Applegate**. Gentlemen, thank you once again.

Our next panel of witnesses include Mr. Don Schwab, director, National Legislative Service, VFW; Mr. Bob Moran, associate legislative director of the Paralyzed Veterans of America; and Comdr. John Wanamaker, deputy director, legislative affairs, Retired Officers Association.

Gentlemen, welcome to the committee. Again, you may choose amongst you who you wish to have begin.

STATEMENTS OF DONALD H. SCHWAB, DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS; BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; AND COMDR. JOHN F. WANAMAKER, USN (RET.), DEPUTY DIRECTOR, LEGISLATIVE AFFAIRS, THE RETIRED OFFICERS ASSOCIATION

STATEMENT OF DONALD H. SCHWAB

Mr. SCHWAB. Mr. Chairman, my name is Donald H. Schwab, and it is my privilege to serve the more than 1.96 million members of the Veterans of Foreign Wars as their legislative director.

We thank you for holding this oversight hearing. We also appreciate the fact that this subcommittee has, over the years, made beneficial changes in the compensation program and also in the DIC program. The most recent in the DIC program, of course, was the change in law that permits the awarding of DIC if the veteran is permanently and totally disabled at the time of death.

Mr. Chairman, not to be redundant, I will summarize my testimony and touch on a couple of subjects not previously covered.

Our current VFW resolution 626 calls for the reduction from 20 to 10 years the time required for compensation ratings to be protected under 38 U.S.C. 110. We are aware that this legislation has been introduced and has failed to be advanced. We realize also that another bill put in by you, H.R. 1871, may be more palatable in that it would not reduce ratings that have been held for 10 years or more until a final decision has been made, so that the veteran could receive the benefit through the review process without incurring an overpayment or indebtedness to the Veterans' Administration.

Another one of our resolutions calls for extending from 60 to 120 days the cutoff for reduced benefits under the compensation program. The rationale for this resolution is that cuts can be very severe, particularly those veterans rated or drawing 100 percent under unemployability, where the reduction can be $600 or more a month. There is quite an adjustment in living to be made in a rather short time.

Mr. Chairman, in a related matter, legislation has been introduced in the Senate, identified as the Cost of Living Increase Limitation Act, which is before the Senate Finance Committee. It would reduce by 3 percent of the CPI, cost-of-living increases for most nonneed tested programs, including dependency and indemnity compensation. There is a companion bill in the House that would reduce the COLA by 2 percent instead of 3 percent, and it does not mention DIC.

But I think it is very important that this subcommittee, the full committee, and all those interested track very carefully the bill before the Senate Finance Committee, because my hair bristles whenever veterans' legislation is taken up by a committee other than the Veterans' Affairs Committees and these things can slip through and sometimes become law very quietly.

That concludes my summary, Mr. Chairman. I will be happy to respond to questions at the appropriate time.

[The statement of Donald Schwab appears at p. 110.]

Mr. APPLEGATE. Thank you, Don.

Mr. Moran.

STATEMENT OF BOB MORAN

Mr. **Moran**. Thank you, Mr. Chairman.

First, I would like to thank Congressman Burton for his kind remarks.

It is a pleasure for Paralyzed Veterans of America to appear today and present the views and concerns of its members on compensation and dependency and indemnity compensation, programs administered by the Veterans' Administration.

PVA would like to address the DIC program, which helps care for the survivors of service-connected disabled veterans. We continue to be disturbed by a major shortcoming of the DIC program, the awarding of DIC benefits based on military pay grade. PVA has opposed this inequity in the DIC program for years.

PVA understands that Congress cannot restructure the DIC program this year. However, we do feel that this subcommittee should address the issue later in this session. Then, next year, the second session could possibly see needed changes made in the DIC program.

Under existing law, the survivor receives DIC benefits based on the veteran's military pay grade and not on his degree of disability. PVA understands the rationale for awarding benefits based on a pay grade when a serviceman dies while in active military service. However, when service-connected disabled veterans die from service-connected causes, years after termination of their military service, there is little or no correlation for using military pay grade as the basis for computing spouses' DIC.

Basing DIC benefits on the veteran's degree of disability has much more correlation to what the surviving spouse should receive than does basing them on pay grade, a status which likely has not been operative in an individual's life for many years. It must be emphasized that the service-connected disabled veteran receives compensation benefits based on his degree of disability. This, the degree of disability, also largely determines the demands placed on the spouse who cares for the service-connected disabled veteran.

PVA maintains that the DIC rate should be based on the individual veteran's degree of disability, in the same manner as his compensation benefits. Under PVA's suggestion, DIC benefits would be based on 75 percent of the veteran's monthly compensation.

Several points should be made clear. First, present beneficiaries must not be harmed by any amendment of the DIC program; that is, new beneficiaries could be grandfathered under a revised payment program and existing ones could elect the new benefit structure. PVA would not support, however, requiring DIC beneficiaries into a new program that would reduce their present benefits.

Second, it is quite likely that the DIC program will need to be split into two separate programs, one for beneficiaries of military personnel who died while on active duty service, and another for beneficiaries of veterans who died postmilitary service of service-connected disabilities. As noted earlier, PVA can understand the relationship of DIC benefits to military pay grade when death occurs during military service. However, we find military pay grade to be irrelevant when death occurs years after termination of military duty.

Mr. Chairman and members of the subcommittee, on behalf of the Paralyzed Veterans of America, I appreciate the time and attention given to our statement by you and the staff of this subcommittee.

Thank you.

[The statement of Bob Moran appears at p. 119.]

Mr. APPLEGATE. Thank you, Mr. Moran.

Mr. Wanamaker.

STATEMENT OF JOHN F. WANAMAKER

Commander WANAMAKER. Thank you, Mr. Chairman.

I am Commander Wanamaker of the U. S. Navy, retired. I am the deputy director of legislative affairs of the Retired Officers Association.

We have amongst our membership over 323,000 former and active duty officers of the seven uniformed services, and we have approximately 37,000 widows of these former members.

First, Mr. Chairman, I think it's important that this committee stop a moment and take a look at the process. Who is making the important decisions on DIC and veterans' disability compensation? Is it the Budget Committee who dictates that only so much money is available for veterans' compensation? Is a 4.1, 3.5 or other percentage factor proper just because social security was adjusted by that amount? Why do we even try to determine a proper disability compensation where 6 month delays impose an approximately 2.5 percent loss in purchasing power?

The first concurrent budget resolution directs this committee to report savings legislation to reduce budget authority by $228 million in fiscal year 1984, $139 million in fiscal year 1985, and $141 million in fiscal year 1986. Basically what I'm saying, Mr. Chairman, up to this point I have no objections and no argument with the way this committee has distributed these budget reconciliation instructions, and I think the committee has done an outstanding job. This is the first time that a trend may be beginning where this is going to impact directly on disabled veterans.

In reviewing current law, section 355 of title 38 states: "The ratings shall be based, as far as practicable, upon the average impairment of earning capacity resulting from such injuries in civil occupations."

A year ago, the former Veterans' Administration Administrator, the Honorable Robert P. Nimmo, in a letter to the Speaker of the House, stated:

> It has long been recognized that in individual instances, the scheduled rating is inadequate to provide fair compensation for the effect of the veteran's disability on his or her employability.

There has been no structural change to this basic law since last year, so I imagine that this inadequacy still exists.

The vague term in the statute, "average impairment of earning capacity," cannot be fairly or properly applied to such diverse skills as a nuclear physist or high school drop-out, both within the membership of the Armed Forces and both subject to injuries inhibiting full earning capacity. A better method must be developed to determine an individual's wage earning capacity and the reduction in that capacity due to disease or injuries attributable to military service.

Now, I'm a realist and I know that it's completely out of the question to change the current program for World War I and World War II or even the Korean veterans, and try now to reevaluate their lost earning capacity when many of them are already out of the work force or about to complete their productive years. The current program, with all its inequities, should be left in place. However, there is no better time than now to look at a program for future disabled veterans.

Mr. Chairman, there exists one group of veterans that is not adequately compensated for service-connected disabilities. If a person stays in the military service for 20 or more years, he becomes entitled to military retired pay, but he must forfeit an equal amount of that earned entitlement in order to receive VA disability compensation. He, in effect, pays his own disability compensation. I strongly urge this committee to favorably consider legislation to authorize the concurrent receipt of military retired pay.

I have recommended that a study be conducted to review the method of determining a proper amount of veterans disability compensation. This study should be expanded to include the employment of disabled veterans within the civil service. I am sure there are many jobs within the Federal Government that are suitable for disabled veterans. I believe the replacement employment could be expanded beyond the 5- or 10-point civil service veterans' preference. Jobs should be identified for disabled veterans.

I might mention, Mr. Chairman, that section 3310 of title 5 states the set aside to apply to guards, custodians, and elevator operators. I am sure the civil service can do better than that.

In addressing the dependency and indemnity compensation, this provides benefits to the survivors of a service member or former member whose death occurs on active duty or results from a service-connected disease or injury. The monthly rates paid to a surviving spouse are based on the pay grade of the service member held on active duty.

There are at least three programs designed to provide indemnity to a family in the event of the death of a service member. I do not believe it possible to make a determination of fair indemnity to one program such as DIC without considering benefits derived from the other two programs.

Mr. Chairman, I believe that a replacement income rate should be decided because of these interworkings between these three programs, and I offer this committee all my assistance possible in making this determination.

Thank you very much.

[The statement of John Wanamaker appears at p. 130.]

Thank you very much, gentlemen. I appreciate your being here to testify in front of the committee. We always look forward to having you come in.

I want to thank Bob Moran, as a first-time witness before the committee. You're doing a good job there and the other guys had better watch out.

Mr. Moran. Thank you.

Mr. Applegate. But I would want to say to Mr. Schwab, it is my understanding that disability compensation and DIC are not indexed and probably would not be affected by the legislation that you made reference to. However, I think they are very important pieces of legislation.

I could say I don't think they will slip through because I probably have more mail on my desk on both the Senate bill and Jim Jones' bill in the House, which is a similar bill, except I think there is a difference of percentage of reduction and time. So there is a lot of ballyhoo, and that seems to be one that the realtors and some of the others have been pushing as a free-for-all to try to balance the budget. But, unfortunately, some times those things are being attempted to be balanced in the wrong way. We will certainly be very careful in our view of those bills.

Mr. McEwen.

Mr. McEwen. I concur, Mr. Chairman. Thank you.

Mr. Applegate. Thank you very much again for appearing before the committee.

Mr. Schwab. Thank you, sir.

Mr. Applegate. Our final panel is Ms. Diana Powell, vice president for legislative affairs, National Military Wives Association, and Mrs. Jean Arthurs, legislative director, National Association of Military Widows.

I welcome you to the committee and look forward to your testimony. You can choose between you who you would like to begin.

Ms. Powell. Mrs. Arthurs has asked me to go first.

Mr. Applegate. Ms. Powell.

STATEMENTS OF DIANA L. POWELL, VICE PRESIDENT FOR LEGISLATIVE AFFAIRS, THE NATIONAL MILITARY WIVES ASSOCIATION, INC.; AND JEAN ARTHURS, LEGISLATIVE DIRECTOR, THE NATIONAL ASSOCIATION OF MILITARY WIDOWS

STATEMENT OF DIANA L. POWELL

Ms. Powell. Mr. Chairman and members of the committee, the National Military Wives Association welcomes this opportunity to speak on the dependency and indemnity compensation program. I am Diana Powell, vice president for legislative affairs of the National Military Wives Association.

Our association is a volunteer, nonprofit association of wives, families, and members of the seven uniformed services. We seek to inform and educate military families and the public regarding issues affecting the quality of military family life.

Since 1957, the benefits available through the dependency and indemnity compensation program have helped to alleviate the hardships facing the survivors of members of the uniformed services. Today, DIC assists widows from all parts of the military community to meet the basic needs of their families. Equally important, DIC provides reassurance to active duty personnel in all stages of their military careers that, in the event of tragedy, their commitment to their Nation's military service will be matched by the commitment of their Nation's Government to their survivors.

Military service is a demanding way of life for military families. Frequent separations, frequent relocations, disrupted employment for spouses, interrupted education for children, and hazardous and stressful duty assignments during peacetime and war are routine aspects of military family life. All too often, military families pay the ultimate price of death or disablement of the service member from service-connected causes. The tragic deaths of marines in Lebanon are recent examples. In peacetime as in war, the military is an ultrahazardous profession.

Military service creates unique needs for military families. Military family mobility disrupts both education and employment of military spouses. Because they must relocate every 2½ years on the average, few military spouses have the opportunity to rise above entry-level employment positions. Moreover, they are unlikely to qualify for their own retirement plans or long-term benefit programs. Frequent disruption of children's education, overseas duty, and fragmentation of family life during separations further disables spouses from vigorously seeking personal career objectives. Thus, upon loss of the service member, surviving spouses are less likely than their civilian counterparts to have financial security available from their own employment. Many widows with no prior opportunity to develop marketable skills are thrust into the labor market for the first time, while burdened with the shock of family hardship and tragedy. A strong DIC program is imperative to keep the family standard of living at acceptable levels.

Military families upon bereavement often lack the real estate equity which protects their civilian counterparts. Frequent relocations, separations, and requirements to reside in military quarters or overseas defeat many families' attempts to obtain the security of owning substantial equity in a family residence. Often, the family resides in military quarters and must vacate soon after tragic loss of the military member. A strong DIC program is critical, if the family is to live in decent quarters.

The average military widow receiving DIC benefits is slightly over 60 years old, according to a Veterans' Affairs study done in 1978. Older widows have even greater difficulty surviving financially as inflation diminishes the value of the various fixed-level benefits on which they depend. Substantial employment is less available to these women. A DIC program which adequately reflects economic change and meets inflation is a necessity.

Service members must be reassured that their dedication to the needs of their service and their sacrifices will be matched by an equal concern for their survivors. Financial security for family members is a factor in the decision to select a military career, for the large proportion of military personnel who are married. In justice to their families, military members can commit themselves to hazardous military careers only if assured their families will be protected in case of tragedy. Virtually all career military personnel can expect to come under hostile fire. Air Force analysts determined that 85 percent of personnel retiring in 1982 had received hostile fire pay in the course of their careers.

The wives, widows, and family members who comprise the National Military Wives Association share the tradition of commitment to our Nation and its Armed Forces. We proudly support our spouses as they implement national policy and fulfill the military missions of our country. Programs such as DIC must provide adequate protection for the survivors who through their spouses and parents have paid the ultimate price to safeguard our liberties.

The National Military Wives Association requests that you enact proposed legislation which would enable military widows to remarry after the age of 60 without forfeiting DIC benefits. Sadly, considerations of the financial disaster of loss of DIC force some widows to live lonely lives or accept lifestyles which are morally offensive to them.

Finally, the National Military Wives Association requests that you enact long overdue increases in the rate of DIC for surviving spouses and children. In particular, we believe DIC must be increased for survivors of enlisted personnel to afford them a decent standard of living. These families have lost too much to their country's service not to be afforded an adequate standard of living.

Thank you for this opportunity to comment on dependency and indemnity compensation. We want to thank you for your support in the past. We know that you will continue to be concerned about these problems.

Thank you very much.

[The prepared statement of Ms. Powell appears on p. 138.]

Mr. **Applegate**. Thank you, Miss Powell.

Mrs. Arthurs.

STATEMENT OF JEAN ARTHURS

Mrs. **Arthurs**. Good morning, Mr. Chairman, and members of the committee. I am Jean Arthurs. We appreciate this opportunity to present the views of the National Association of Military Widows at this hearing on legislation relating to the dependency and indemnity compensation program as it affects surviving widows: H.R. 433, as introduced by Representative Whitehurst, and H.R. 334, as introduced by Representative Roe.

The above bills will amend title 38 of the United States Code to allow military widows in receipt of dependency and indemnity compensation to remarry after age 60 and retain their annuity.

The Nation has acknowledged a debt to these military widows through the enactment of the DIC program. They are surviving widows of a serviceman who died on active duty, or a retiree whose death in retirement was a result of disease or injury that was service-connected.

The other Federal programs covering death in job-related cases have included this option of remarriage. Under the FECA program, at age 60 the widow is allowed to remarry and the annuity continues. If she remarries before age 60, she is awarded 24 months full annuity. Under the DIC program, the annuity ends with remarriage at any age and there is no award made.

Among other programs with the remarriage after 60 factor include the military retired serviceman's family protection plan and the survivor benefit plan. Omitting the DIC program from this option amounts to discrimination within categories of the military community.

Civil service and foreign service programs have factored in the retaining of the annuity on remarriage after age 60.

I would like to say, too, a common misconception regarding these two Federal programs is that because they are considered contributory retirement programs, they are not indemnity programs, such as DIC. However, with the refunding of all paid in retirement benefits to the spouse, the surviving spouse, they do become indemnity programs.

Every one of the above groups have the same paymaster—the U.S. Treasury. The National Association of Military Widows feels it is time for Congress to show some compassion and correct this inequity among Federal programs—all should be covered with the same equitable compensation benefits.

The cost factor to the Government for this change in regulations allowing the surviving spouse to remarry would be negligible, as so few widows after age 60 have the opportunity to do so. However, it would make it fair for the few who could do so. These fine, older ladies would not be marrying and carrying younger deadbeat husbands the second time around as some people fear they might. In support of this conclusion, I offer the example of our association. Our files show only three covered widow remarriages since 1978. We have members throughout the Nation.

Statistics prove that older men marry younger women. However, demographic figures show that only 14 out of every 10,000 widows remarry after age 60.

We cannot continue to abide with a system which disregards military men's contribution for the preservation of freedom the day they die and discriminates against their dependent survivors.

A past Secretary of the Army states,

> When the Government contracts for the serviceman, it really contracts for the entire family unit, as it includes all of the family in the adjusted lifestyle, the 24-hour call, the perils and discomforts with readiness to serve anywhere, to go to hazardous places at a moment's notice.

The service wife is expected to be ready to follow her husband to any assignment, or to remain behind cheerfully and carry on the family burdens, whatever they might be, and wherever the family might be. These women have proven to be some of the best ambassadors this country has ever had. Their patriotism and commitment to the military cannot be questioned.

It is considered unseemly that the lamentable plight of these fine people should continue to be ignored. We strongly urge that these bills be favorably viewed by this Congress and our country's chief executive.

Because of time, I will not go into the rest of my testimony other than to say we have offered a possible solution to the DIC by suggesting all Federal employees be covered under the FECA as civil service and foreign service people are.

Also, it should be brought to your attention that according to the law, the dependency and indemnity compensation widow is entitled to medical care on a basis with active duty dependents at all military medical installations. To date, we are unable to trace any cases where this regulation was followed by the military medical service.

As appropriations are cut back, it is becoming increasingly difficult to secure adequate medical care at military hospitals and other health facilities. CHAMPUS entitlements have been drastically curtailed to the point that the medical certificate needed for outside care is impossible to secure in most areas of the nation.

This concludes my testimony for today. I wish to thank you. If you have any questions, I will be glad to answer them.

[The statement of Jean Arthurs appears at p. 141.]

Mr. **Applegate**. Thank you very much, Mrs. Arthurs. Again, we appreciate both of your appearances before the committee and your very excellent testimony. You can be assured that the House will be very seriously considering Mr. Roe's and Mr. Whitehurst's legislation. The final outcome, of course, we cannot guess. But we know there is going to be a lot of support for it.

I think, Miss Powell, when you very succinctly stated that the military service is very demanding for the military family, pointing out some of the problems, and that upon the loss of the service member, surviving spouses are less likely than their civilian counterparts to have financial security available from their own employment, and then adding that a strong DIC program is imperative to keep the family standard of living to acceptable levels, I think those are excellent points, points that I think that the committee and Members of Congress are very much aware of. We intend to see that the DIC program is going to be a very strong and viable program in the future years.

Ms. **Powell**. Thank you very much.

Mr. **Applegate**. Mr. McEwen.

Mr. **McEwen**. Mr. Chairman, you have expressed my sentiments so well, as always, but in this case, again, allow me to communicate our appreciation for the service that you are rendering on a daily basis to our country.

To those of us who sit on other committees throughout the Congress, there is in my mind no comparison between those who on a daily basis—and I think of the disabled American veterans and I think of the Gold Star Wives and the Gold Star Mothers and those such as yourself have not only given their service to this country—the POW's that have suffered physical abuse—they didn't just serve their country but, on a daily basis, continue to pay a sacrifice for the freedoms that we enjoy.

As we look at these other demands from those who pride themselves on their disrespect for our Nation and our system, I don't think they should just be behind those that are making the sacrifice; I don't think they deserve to be even in the same line as those who are entitled to every priority that this Government can give.

Not to digress, but we had a young man who escaped from a country and made it to the front pew of our church recently, with $3,000 in his pocket and the clothes on his back, and he had a tourist visa that he had gotten a couple of years ago—that was the only way he got into the country—reemphasizing again to the little, small, rural town in Ohio that on this globe there are those that are willing to risk dying of thirst or dying of starvation, hoping upon hope to make it to the shores of this country, the symbol and beacon of freedom around the world, bar none. It is that way because of the sacrifice that each one of you continue to make on a daily basis.

Any efforts that we make in the Congress pale in insignificance to the appreciation and debt of gratitude that we truly owe.

Mr. **Applegate**. Thank you very much, Mr. McEwen.

That concludes our hearings today. Our next oversight meeting is scheduled for October 4 on the VA's insurance program.

Thank you all very much for coming.

[Whereupon, at 11 a.m., the subcommittee was adjourned.]

APPENDIX

Statement of Dorothy L. Starbuck,
Chief Benefits Director, Veterans Administration
Before Subcommittee on Compensation, Pension
and Insurance
Committee on Veterans' Affairs
House of Representatives
September 22, 1983

Mr. Chairman and Members of the Subcommittee, I am pleased to appear before you this morning to discuss a variety of issues which impact on the Compensation and Pension programs. You specifically asked that issues be addressed including the status of implementation of the Quayle Amendment, income questionnaire processing, the tender scar review, an update of implementation of Public Law 97-37 for former prisoners of war, the pending review of examination controls and an update on operation of the Target System.

QUAYLE AMENDMENT

The 1981 Omnibus Budget Reconciliation Act, Public Law 97-35, provided for the elimination of benefits under the Social Security Act for students and surviving spouses with no children under 16 in their custody. The 1982 Continuing Budget Resolution, Public Law 97-377, contained a section commonly referred to as the Quayle Amendment. This section provided for a program of special benefits similar to those eliminated in 1981. The benefits are payable to the survivors of veterans who died of service-connected causes incurred or aggravated prior to August 13, 1981.

Payment of the benefits is a joint undertaking of the Department of Defense, the Social Security Administration and the Veterans Administration. Funding is being provided by the Department of Defense, certain information necessary to determine the rate of payment is obtained from the Social Security Administration but the Veterans Administration is responsible for administering the program. The Executive Order naming the Veterans Administration as administering agency was signed on July 29, 1983.

The Veterans Administration worked closely with the Social Security Administration in meeting the challenge this unique program presented. The Social Security Administration maintained lists of people who inquired as to eligibility for benefits and provided the lists to our regional offices. Applications were mailed to school children and surviving spouses during the last week in July. A special adjudication unit was set up in the St. Louis regional office and this unit, as well as central office personnel, was trained by Social Security Administration personnel in social security laws, regulations and procedures.

On August 1, 1983, the first payments were made to 6,303 children who had been attending uninterrupted full time post secondary school attendance from January 1, 1983. These payments were made based on a VA/SSA computer tape exchange. A total of 4,514 children who indicated an intent to reenroll in the fall also received a check on September 1. To be eligible for further benefit payments, an application for benefits must be submitted.

Applications received by regional offices are reviewed to determine whether the veteran's death occurred in service prior to August 13, 1981, or was caused by a service connected disability incurred prior to August 13, 1981. Claims which do not meet these requirements are being disallowed by the regional offices. If basic eligibility is established, the regional office verifies the dependency status of the applicant and forwards the application to the special adjudication unit in the St. Louis regional office.

The VA received $22,000,000 from the Department of Defense for fiscal year 1983. These funds supported both benefit and administrative costs. For 1984 a total of $41.8 million has been requested of DOD.

ANNUAL INCOME QUESTIONNAIRES

The basic purpose of the nonservice-connected pension program and the death compensation and dependency and indemnity compensation programs for parents is to provide income assistance based on need. Because income from all sources serves to reduce an individual's need, the law generally requires all income be counted to determine if need, as defined by law, is present and the amount of benefits that may be paid.

To assure that each beneficiary receives the proper rate of benefits, an income questionnaire is forwarded in November of each year to most recipients of need based benefits. The questionnaire must be returned to the Veterans Administration for a detailed analysis of the beneficiary's income. On the basis of the information on the questionnaire, a determination is made as to whether the proper rate of payment was made for the current year and the appropriate rate for the next year is computed.

The Treasury Department previously provided the Veterans Administration the service of enclosure of the questionnaires with the checks for November 1. The Treasury has discontinued this service. The Veterans Administration is now required to use a separate mailing. For the 1983-84 period we have created nine new questionnaires and separate worksheets to provide forms that will be easier and less confusing for pension recipients to complete. The 1983/1984 income questionnaire processing will be carefully monitored and evaluated to determine whether the changes produce improved clarity of responses or whether additional format development is necessary. We will be conducting on-sight review of processing at the Special Processing Unit in Philadelphia and will be analyzing the rates of card rejection and referral to the regional offices.

All income dependent benefit recipients will be required to file income reports during the 1983/1984 questionnaire season. Parents' dependency will be reviewed in early 1984 as a separate project after the majority of questionnaires have been processed.

SCAR REVIEW

In the course of our regular review of the compensation program, we noted that the number of veterans receiving benefits for tender scars differed significantly from what would be expected given the number of noncompensable scars. Therefore a review of compensable service-connected scar cases was conducted during 1982-1983. A total of 76,285 cases with at least one compensable scar were reviewed. Eighty nine percent of the evaluations were confirmed. Of the evaluations confirmed, over 61 percent were not subject to reduction because the evaluation had been in effect for 20 years or more.

All unprotected cases totaling 34,623 were carefully reviewed. Examinations were ordered for cases with clearly erroneous prior ratings and for cases in which the evidence of record was not sufficient to support the conclusion that the ulceration or tenderness of the superficial scar could be expected to be permanent. In most cases reduced, the examinations revealed superficial scars that were no longer tender or otherwise disabling, though they had been at one time.

In 94 cases the evaluation for a disability was raised, but this did not always result in an increase in benefits payable due to the use of the combined rating table for multiple disabilities. There were decreases in an individual evaluation in 5,702 cases, but again this did not always result in a change in the benefits payable due to use of the combined rating table. Cases which were not actually subject to review for various reasons accounted for 3.4 percent of the total.

The review resulted in annual savings of approximately $4.9 million. The one time costs for the review were approximately $4.2 million.

PUBLIC LAW 97-37 - PRISONERS OF WAR

Public Law 97-37, the Former Prisoner of War Benefits Act of 1981, liberalized the eligibility requirements for certain benefits and extended new benefits to former prisoners of war. The law had previously provided presumptive service connection for a variety of diseases related to the prisoner of war experience, generally if the diseases became manifest in a veteran who had been a prisoner of war for 6 months or more. Public Law 97-37 reduced the length of incarceration required to 30 days and further liberalized the presumptions regarding service connection for the mental disorders of anxiety states and psychoses. The legislation also provided eligibility for medical care for any disability, whether or not service-connected, and established the Advisory Committee on Former Prisoners of War.

The Veterans Administration has continued to take positive action on implementation of both the letter and the spirit of Public Law 97-37 with respect to former prisoners of war. We have been working closely with the Advisory Committee on Former Prisoners of War and have implemented a number of the Committee's recommendations for improvement of our benefits delivery system. At the request of the Advisory Committee we produced and distributed to all regional offices and medical facilities a training film entitled "A Flag for POW." This film was designed to educate VA employees on the provisions of Public Law 97-37 and sensitize them to the POW experience. The film was followed by publication of a revised Program Guide on the development and rating of POW claims.

Earlier this year the VA, in conjunction with the Advisory Committee, developed a new examination protocol for former prisoners of war. This protocol combines an extensive medical/social history questionnaire with a complete battery of physical and mental examinations. It is designed to elicit a detailed account of each individual's POW experience and provide a complete and current picture of the individual's disability status. We believe this new protocol will be of great assistance in determining service-connection for many disabilities.

On July 1, 1983, all regional offices were directed to offer the new examination protocol on a priority basis to all former prisoners of war whose claims had been rated subsequent to the effective date of Public Law 97-37 and who had not received favorable rating action. This re-examination is strictly voluntary, and no adverse action will be taken if a POW claimant chooses not to take advantage of it. There are currently 36,430 POW's receiving compensation or pension. Re-examinations have been offered to 3328, but since the veteran must decide whether he or she wishes to be examined, we are unable to determine the total number of re-examinations which will be conducted. The new protocol is, of course, available to all former POW's who reopen their claims.

The Advisory Committee recently submitted its first formal report to the Administrator as required by Public Law 97-37, and the report has been transmitted to the Congress together with the Agency's comments on the 21 recommendations which it contains. We are implementing those recommendations with which we have concurred.

FUTURE PHYSICAL EXAMINATION STUDY

At the time a claim is rated for any reason, the rating board makes a determination whether future improvement in the disability is likely. If such improvement is determined to be likely, the date on which a future examination should be conducted is noted on the rating decision. This future control is to be entered into the computerized master record in order that an automatic reminder will be furnished to the regional office. If the appropriate control procedures are not followed, the future examination will not be conducted. If the condition does in fact improve but the veteran is not examined, the veteran will continue to receive benefits in excess of those to which the severity of the disability would otherwise entitle. Reviews of claims for various reasons, and a GAO study, have shown that future examination controls are not being established in all cases.

Field stations are currently conducting a review of approximately 40,000 cases in which the veteran was released from active duty after 1971, is evaluated as 50 percent or more disabled and there is no future examination control in the computer master record. We have chosen to review more recent evaluations with relatively high degrees of disability as this parallels the type of cases reviewed by the GAO. Our interest in this review is to assure that necessary controls are in fact in place.

If a rating board had in the past requested a future examination control, a determination will be made to enter the previously determined future date control, schedule an at once examination or conclude that further examination is unnecessary, as indicated by the facts in the individual cases. We expect the review of the cases will be completed in approximately 3 months but cannot determine how long it will take to complete the examinations. Most importantly, we have amended our Target processing procedures to require a positive or negative entry in the future date field to preclude recurrence of these errors of omission.

TARGET OPERATIONS

The Target system has been fully operational in all regional offices except Manila. All processing of information to support payment of recurring benefits can be submitted via Target. Processing of additional master record corrections will be implemented by the end of September, accrued award processing and diary controls processing will be implemented by the end of 1983.

During 1984 improvements are also scheduled in the Target processing of awards. Submission of only the changed information will result in the automatic generation of awards in currently running cases. Original improved pension awards will be generated. Printing capability will be upgraded to allow generation of formal award forms for filing in the claims folder which will be easier to read than the current format.

Due to the closing of the Manila Treasury Disbursing Center, it was necessary to replace the punch card system previously used to issue payments to beneficiaries under the jurisdiction of the Manila Regional Office. A new payment system was designed which utilizes a computer system located at and controlled by the State Department in Manila. The old payment cards were used to create a direct access disk file on the State Department computer. Two terminals and a printer were installed in the regional office to provide the capability to change the master record. The computer in Manila will create payment authorization which will be shipped to the Treasury Disbursing Center in Austin, Texas. The Treasury in Austin will produce the checks and mail them to the Veterans Administration Regional Office in Manila for subsequent mailing to the beneficiaries. October 1 is the first payment to be processed using this system.

RATING BOARD TRAINING

Our reviews as well as the results of external reviews indicated to us a strong need for provision of training in certain rating areas to board members at the regional offices. Four regional sessions were conducted in early 1983. Three instructors trained representatives from the regional offices. A total of 113 participants were provided with 40 hours of intensive training. These representatives in turn conducted training sessions for their fellow rating board members at each regional office.

We plan to conduct further training in the next fiscal year as part of our overall quality assurance program.

DIC

Prior to enactment of the dependency and indemnity compensation program in 1957 death compensation was payable to surviving spouses, without regard to the veterans' pay grades. A number of Executive and Congressional Committees were appointed in the early 1950's to make an objective appraisal of the then existent structure of government benefits payable to current and former military and civilian Federal personnel and their survivors. Following years of study these committees formulated recommendations based on their analysis of the existing benefit structures as well as testimony received at public hearings. The dependency and indemnity compensation program reflected one benefit structure change, that survivor benefits be based on the highest attained pay grade of the person who served. As a result, the surviving spouses of officers receive larger benefits than the surviving spouses of enlisted personnel.

The dependency and indemnity compensation program has undergone continued review since its enactment. The most recent study of the program was completed in 1977. This study addressed the question of whether payments to surviving spouses should continue to be based on the pay grade of the deceased veterans, and if so, to what extent. The positive and negative aspects of retaining the current basis for payments, returning to a uniform rate or developing some other basis were all examined. The study concluded that the adequacy of payments was mainly a judgment question which depended largely on the yardsticks employed and that the present payment basis represented a judicious compromise which, as with all compromises, cannot completely satisfy all recipients.

In view of current interest in the dependency and indemnity compensation program, we are formulating a study to develop additional information regarding veterans whose deaths are service-connected, including the percentages of disability at time of death. We would like to emphasize that any project undertaken would be for the sole purpose of collecting data not currently available from other sources.

Mr. Chairman, this concludes my prepared remarks. I will be pleased to answer any of the Committee's questions.

Hearings: Subcommittee on Comp., Pen., & Insurance
to review Compensation and DIC Programs

September 22, 1983

Miss Dorothy Starbuck
Chief Benefits Director
Veterans Administration
810 Vermont Avenue, N.W.
Washington, D.C. 20420

Dear Miss Starbuck:

At the hearing of the Subcommittee on Compensation, Pensinn and Insurance this morning, it was indicated that the Subcommittee would be submitting questions to be answered for the record. Accordingly, it would be very much appreciated if you would respond for the record to the following questions:

1. Do you have a cost estimate on Congressman Whitehurst's bill to continue compensation payments to widows who remarry after age 60?

2. When do you expect to begin your study on Dependency and Indemnity Compensation and when will you have it completed?

3. Do youhhave any statistics on the number of veterans who have hhad their compensation reduced as a result of your reviews and then had the reductions restored by the Board of Veterans Appeals?

4. Would you comment on the relationship between your office and the Advisory Committee on Former Prisoners-of-War?

5. Can you furnish for the record the number of veterans who have received increased compensation as a result of the new Prisoners-of-War law, P.L. 97-37?

6. How do you respond to the criticism of the American Ex-Prisoners-of-War that your department does not give adequate consideration to ex-POW cases with respect to missing or non-existant medical records, acceptance of lay evidence or with respect to benefit of the doubt being given to these veterans?

Your cooperation in furnishing a timely response would be appreciated.

Sincerely,

BOB MCEWEN
Member of Congress

Office of the Chief
Benefits Director

Washington, D.C. 20420

Veterans
Administration

OCT 11 1983

In Reply Refer To
211A

Honorable Bob McEwen
Committee on Veterans' Affairs
House of Representatives
Washington, D.C. 20515

Dear Mr. McEwen:

I appreciate this opportunity to respond to the questions which you submitted subsequent to the oversight hearing on September 22. The following responses are numbered in the same order as the questions in your letter:

1. The cost estimate for Congressman Whitehurst's bill, H.R. 433, will be a part of the Agency position regarding this bill. As of this date all of the necessary concurrences, including that of the Office of Management and Budget, have not yet been obtained.

2. We expect the study of Dependency and Indemnity Compensation to begin in December 1983 or January 1984 and to be completed during 1984.

3. The various reviews were undertaken in order to conduct oversight of the programs under the jurisdiction of the Veterans Administration. The purpose was not to reduce payments, but to assure that payments were commensurate with the requirements of the law. In compiling the results of the reviews note was taken of the number of evaluations reduced. There was no mechanism for following these claims to determine if the evaluation was later increased based on new evidence or upon appeal to the Board of Veterans Appeals.

4. Both I and my staff have an excellent working relationship with the members of the Advisory Committee on Former Prisoners of War, and we thoroughly appreciate their efforts to improve our benefits delivery system.

5. A review of the 7384 rating decisions received in VA Central Office during the period from October 1, 1981, to July 1, 1983, revealed that 3334 former POW's have received an increase in their compensation since the effective date of Public Law 97-37. We anticipate a significant increase in that number as more former POW's take advantage of the

new examination protocol that was developed in response to an Advisory Committee recommendation. We are currently revising and expanding our computer data base to provide more detailed information on the adjudication of former POW claims.

6. The doctrine of reasonable doubt as set forth in 38 C.F.R. § 3.102 allows the expression of a rating board's collective judgment that the available evidence in an individual case is so evenly balanced on a given issue, generally the issue of service-connection, that it neither proves nor disproves the claim. When such a doubt arises, it is to be resolved in the veteran's favor. In the case of a former prisoner of war the lack of medical records covering the period of internment requires careful review of the probative value of secondary evidence, including lay statements, to determine if a reasonable doubt exists as to the issue of service-connection in light of recognized medical principles and the known hardships of the POW experience. As in all judgmental decisions, it is possible for reasonable individuals to differ as to the probative value of secondary evidence, but this does not mean that the doctrine of reasonable doubt is not being applied.

Sincerely yours,

John W. Vogel, Jr. Deputy Chief Benefits Director
in the absence of
DOROTHY L. STARBUCK
Chief Benefits Director

GOLD STAR WIVES
OF AMERICA

Gold Star Wives of America, Inc.

STATEMENT OF

MRS. GERALDINE B. CHITTICK, CHAIRMAN
NATIONAL LEGISLATIVE COMMITTEE

GOLD STAR WIVES OF AMERICA, INC.

TO THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

OF THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

CONCERNING A REVIEW OF THE DEPENDENCY AND INDEMNITY
COMPENSATION PROGRAMS

Frankfort, IN 46041
September 22, 1983

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE,

Gold Star Wives of America appreciates the recognition and the invitation to participate in this hearing and present a statement regarding the Dependency and Indemnity Compensation program. Thank you for the privilege of addressing our remarks to this particular portion of this hearing to review the compensation programs administered by this Committee.

Our organization represents widows and children who have specific problems, concerns, and needs not aligned with those of any other citizens of this country. Although Gold Star Wives are honored to be jointly recognized with the American Gold Star Mothers (with whom we are so often confused),there is no connection between the problems and needs of Gold Star Wives and their children and Gold Star Mothers other than the loss and grief. Upon the loss of our husbands, we immediately were called upon to assume a totally different way of life as a single person, assume the head of a household, and be the total parent of fatherless children. Some of our members have also become gold star mothers.

Because our organization continues to have difficulty in maintaining an identity of its own, let us stress the reason Gold Star Wives of America came into existence. When World War II was leaving thousands of widows and fatherless children with no organization to which to turn for understanding, advice, and assistance because all existing widows' organizations were established on the basis of the war involved and were closed to us, a small group organized Gold Star Wives in New York City in 1945. Our membership is limited to widows whose husbands died while a member of the armed forces, or who died subsequent to such service as a result of injury or disability incurred during such service. Membership is open to survivors of all wars and conflicts regardless of rank, race, or creed.

It has been obvious for several years that death compensation rates were in need of revision. Gold Star Wives' membership is totally comprised of the widows whose compensation is scheduled for review in this hearing: therefore, in anticipation of this event, a Resolution setting forth the recommendations of our organization was adopted by the General Assembly of the 38th Annual National Convention of Gold Star Wives of America at Asheville, NC June 30-July 3, 1983. The Resolution follows in its entirety:

GOLD STAR WIVES OF AMERICA, INC., comprised of widows of servicemen who died while on active duty or from disabilities incurred during such service, is representative of all Dependency & Indemnity Compensation recipients. Membership is not a large percentage of eligible widows, but the organization is representative of all in that there is among its membership no distinction between rank, race, or creed. As a service organization, Gold Star Wives of America also recognizes the service widow and her needs socially and psychologically as well as financially.

It should be pointed out that there is a great discrepancy in DIC and retirement pay. It should be recognized that many women's husbands spent years in service -- looking forward to retirement -- but were killed shortly before that time; or, in some cases, stayed on after retirement date and lost their benefits.

We recognize that DIC rates in the lower pay grades are grossly inadequate at the present time. The government benefits are appreciated, and we are thankful to have them; however, we must emphasize that the widows lost much in life when we lost our husbands. Many widows, were their husbands living, would be enjoying a better financial status, health, and general well-being. The lack of security and added responsibilities of home and family cause a great deal of stress and worry. Many widows are caught in a period during which they may not be physically able to be employed -- but still have several years before becoming eligible for Social Security.

In deference to the servicemen who had given some length of time in the service of our country, and especially the career members of the armed services, Gold Star Wives of America believes a portion of DIC should continue to be based on rank, and in addition, length of service.

GOLD STAR WIVES OF AMERICA recommends: That a flat base rate be readopted (as in 1956-69) providing all widows an equal base pay rate plus a set rate based on rank and length of service -- with the cost-of-living adjustments (COLA) being applied to only the equal base rate. In this manner, the gap would not continue to become greater and greater as it does under the present system (and which also occurred in the formula for computation used from 1956-1969 when the increases were in the percentage of the husband's base pay).

Thank you for consideration of the views of Gold Star Wives of America.

American Ex-Prisoners of War, Inc.
CONGRESSIONALLY CHARTERED
NATIONAL HEADQUARTERS
2306 WILMER DR. • GRAND PRAIRIE, TX 75051

STATEMENT BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
BY
C. EARL DERRINGTON, JR., NATIONAL COMMANDER
AMERICAN EX-PRISONERS OF WAR
WITH RESPECT TO
DETERMINATION OF SERVICE-CONNECTION
FOR
VA COMPENSATION AND RELATED PURPOSES

WASHINGTON, D. C. SEPTEMBER 22, 1983

WE EXIST TO HELP THOSE WHO CANNOT HELP THEMSELVES.

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Mr. Chairman and Distinguished Members of the Committee

I am Earl Derrington, National Commander of the American Ex-Prisoners of War Association, which now numbers some 20,000 members. I served in World War II and was a prisoner of war of the Germans during that tragic conflict.

Determination of Eligibility for Compensation is an area of great concern to all veterans. It is of even greater concern to former prisoners of war because crucial medical and other records related to the period of their confinement are lacking or grossly inadequate—and because adverse physical and mental health consequences develop gradually or occur much later in life.

It is for these reasons that I am deeply grateful for the opportunity to present the views of our organization on this important matter. We appreciate the considerable compassion and consideration previously shown by this Committee in the passage of PL 97-37 in 1981.

If I may take a few moments to review what that landmark legislation accomplished, it will provide a useful perspective for our remaining concerns.

PL 97-37 opened the door of the VA health care system to thousands of deserving and desparate ex-POW's previously denied such care. I would be remiss if I did not report that DM&S has truly put out the welcome mat. It would not be appropriate to review all the fine things initiated, accomplished or underway, but we want to acknowledge they occurred and were fully consistent with the intent of Congress in this respect.

PL 97-37 opened the doors of the VA to veterans captured less than 6 months. By reducing this to 30 days, thousands of POWs—primarily Battle of the Bulge casualties—became eligible for many VA benefits. As you will recall, the majority of this group were prisoners only a few days short of 6 months.

PL 97-37 added "anxiety states" to the presumptive list of conditions occurring any time after service. Such conditions, according to VA records and research findings, occur at a frequency many times greater for POWs than other combat veterans. This is increasingly helping many POWs.

PL 97-37, lastly, established an Advisory Committee of experts in long range health consequences of captivity, and of former POWs, that has, under the skillful leadership of General John Flynn, pursued the objectives set forth by Congress with great dedication and determination.

As significant as these benefits of PL 97-37 are, they have had insignificant impact on the crucial problem of determining service-connection for conditions occurring while a POW for which no records exist—or which are the long-term consequences of the physical adversities experienced during captivity. In this respect, many highly deserving and physically impaired veterans are yet to receive the help they so desperately need. There is an urgency that cannot be disregarded since the great majority are now 60 years of age or older.

It is not clear whether this deficiency in benefits is due to statutes governing compensation or to VA regulations that could be modified in response to these special needs if the initiative were taken by the Department of Veterans Benefits. We are disappointed and dismayed by the continual insistence of officials of that department that regulations, as they apply them, are wholly adequate when, in truth, deserving POWs are routinely denied service-connection. The initiative taken in developing the excellent training film "A Flag for POWs" is commendable. The film sensitizes VA employees to the inhumane conditions suffered by the POW, alerts them to the health consequences, acknowledges that medical records are lacking or inadequate, and urges these employees to give POWs the benefit of the doubt in their claims. However, DVB has completely failed to take any steps that make it possible for their rating panels to apply this in the adjudication process.

The bottom line reality is that DVB regulations, as they are currently applied, rigidly hold former POWs to requirements for medical evidence in service records related to the POW experience when such evidence is known to be non-existent or inadequate. Nor has there been the slightest broadening of etiological requirements for determining service relatedness despite the expanding medical and epidemological evidence supporting such relationships. The sole exception has been with "anxiety states", but this liberalization was mandated by PL 97-37.

Rating boards routinely acknowledge the POW faced terrible hardships, but just as routinely restrict the application of the reasonable doubt doctrine to the "available" medical evidence in the veteran's service records. Since there are no available records, the claim is summarily denied. The situation is further compounded by inadequate utilization of the regulation requiring favorable consideration of lay or other evidence "if consistent with the circumstances, conditions, or hardship of such service" when no adequate official records exist. No validity is given to the POW's detailed descriptions of illness or injuries sustained, even when backed up by explicit buddy statements, authoritative statements of private physicians, or first hand observations of employers, fellow workers, neighbors, or family members. Finally, routine compensation medical examinations on POWs are invariably accepted by rating panels even though inadequate or inappropriate for determining long-term consequences of even the most prevalent POW conditions, post frostbite syndrome and hepatitis.

These are serious charges and I would like to present several typical examples—and I emphasize "typical"—of cases acted upon since the passage of PL 97-37 and the usual unfavorable decision reached by DVB rating panels. I will quote the exact language used in the rejection of the claim.

Case #1 Rating Board Decision, August 19,1982—Residuals of Frostbite

"Service-connection for frostbite is denied...a new factual basis for reconsideration has not been provided."

(Note: He had previously been turned down in 1975, 1977 and 1978 as not incurred in or aggravated by service)

The evidence that frostbite occurred in service included explicit statements dated in 1979 by fellow POWs (some notarized) of his condition. Excerpts follow:

> "We were forced to labor under extreme weather conditions. John's hands, feet, and ears were severely frozen, and he was hospitalized...the frozen parts became swollen very badly and he was poorly cared for."

> "I was in prison camp with John...and we worked on potato farm. John's feet, hands, and ears were frozen...he was taken to hospital for treatment."

> "We were taken to a potato farm to work...around January 20, 1944 John's hands and feet were frozen... he was returned to Stalag 2B to enter a hospital."

> "...I know for a fact that John's feet, hands and ears were frozen while in prison camp...in January or February 1944...I know at the time he was taken to the hospital for treatment."

The continuation of his symptoms after service was substantiated in writing by private physicians (he paid for his own care); by his employer of 25 years; by fellow workers and others.

Also DVB rejected records of diagnoses and treatment of VA physicians from 1973 to 1981 (the veteran only went to VA when his own ability to pay for care diminished). The VA doctors used these words: "history more important than physical findings...impairment is moderate to substantial depending on weather...we should follow this case to obviate hospitalization."

The DVB Rating Board even ignored their own C&P medical findings in 1974 and 1982 which noted the veteran's complaints and found many of the symptoms of residuals of frostbite.

On special appeal to BVA by our national appeals officer only a few short months ago, an outside medical expert was utilized. He confirmed in every respect what the veteran had claimed! "This veteran has exhibited and continues to exhibit all the common symptoms of the late effect of cold injury...clinical observations in the record are quite explicit...it is important to note that it was exposure to cold over a long period of time." The physician's statement is attached.

Even today we don't know if DVB has finally acted to service-connect this veteran who was a POW of the Germans for 17 months during which he was forced to work in the fields during the extremely cold winter of 1944-1945 with feet so swollen he had to wrap them in burlap since he could not wear shoes!

This case is not unusual. It is typical! It is routine! Unless there is medical evidence in the official service record, ex-POWs with residuals of extreme frostbite are summarily denied service-connection as "not shown by evidence of record." It should also be noted that never once did DVB ask for a medical evaluation by a physician with expertise in the area of frostbite. Nor was the doctrine of reasonable doubt applied in any meaningful way. It was applied only to the official record, not to the total record.

It is a simple fact. Unless frostbite residuals were noted in service or immediately thereafter—in official records—former POWs are routinely denied service-connection. The VA does not even bother to attempt to rebutt the claim by showing intercurrent causes. For the benefit of the Committee, and with the permission of the veteran, I have included the detailed statement of the medical expert utilized by the VA eight years after the veteran first submitted his claim in this case. I can assure you he is not the exception but the rule. The veteran who tried to make it on his own—as characterizes most POWs grateful to be free—is treated with disdain and mistrust, and he is routinely denied service-connection. Evidence of occurrence in service, evidence of continuity of the symptoms after service have no weight whatsoever unless there are official records, and these are known to be non-existent for most POWs.

Case #2 Rating Board Decision, Feb. 1982 — Hepatitis/Cirrhosis of the Liver

"There is no evidence of yellow jaundice, residuals of hepatitis, or cirrhosis of the liver shown at separation or in VA exams of 1954 and 1967."

The circumstances under which he served are these: He was a prisoner of the North Koreans for 37 months. The records confirm treatment so harsh that only one third of 734 men survived.

As evidence of occurrence in service, the veteran provided the following: Statement by a physician imprisoned with the veteran who stated categorically that all POWs in that group sustained hepatitis as well as many other life-threatening conditions. Four buddy statements of fellow-survivors who knew the veteran well. "I can testify he turned all yellow and they would not give him any medication—it's a miracle he survived—he had a liver disease where his skin turned yellow and worms, 8-10 inches long, came out of his mouth...he couldn't keep up and they beat him severely ...he looked like a skeleton and was given last rites by a Catholic priest."

The medical records in service and at separation are silent on hepatitis because the acute symptoms had subsided. He was never examined for residual damage. The DVB rating board cites two VA examinations in 1954 and 1967 as negative for this condition, but totally ignored the fact that these examinations were for hearing loss and included no specific examination to determine liver damage.

Written statements were provided from his employer citing him as of exceptional character and loyalty—an outstanding employee. Fellow workers described him as one of the most respected men to serve as shop steward. Neighbors described him as a family man of impeccable character with no bad habits. All these, plus his wife, specifically indicated he did not abuse alcohol at any time. His private physician never believed or treated him as a man who drank excessively but did believe that hepatitis sustained as a POW was etiologically responsible for his cirrhosis of the liver (veteran died of this disease in 1981)

The DVB rating board rejected all of this and concluded on the basis of a factual error in VA medical records that the veteran was a "known alcoholic". There was not a shred of evidence to support this, nor was the veteran ever treated as an alcoholic. Statements from the wife and doctor that only an innocent remark from her to the effect that "at most he drank 6-8 beers on a weekend" caused this error to occur.

The rating board stated "to hold that an etiological relationship exists between any incidence of service and the cirrhosis of the liver would be mere speculation". This same rating board had no hesitation in accepting alcoholism as a cause despite the array of evidence indicating this was not so. DVB officials in VACO reviewed the case and saw no deficiencies, were satisfied with the thoroughness of the evaluation. They denied a request for outside review. Research evidence showing the significantly higher incidence of hepatitis among POWs, and greater death rate for cirrhosis, was rejected.

Upon appeal to BVA, a careful review of the whole record was made by the NSO for the American Ex-Prisoners of War— and an independent review was asked and granted. The outside medical review concluded "it is quite possible the man's demise was importantly related to his illness as a POW." The BVA concluded that a reasonable doubt had been raised concerning the service origin of his liver damage and the DVB rating decision was overruled.

As with the previous example on frostbite, the DVB rating board decision to deny service-connection for hepatitis—and to accept almost any information concerning post service drinking, minimal or otherwise, as the sole cause of liver disease—is typical and routine. In doing so, it disregards research data and specific information as to the circumstances under which the veteran served—and the serious but untreated diseases the POW typically experienced during confinement.

These two examples concerning frostbite sequelae and liver disease by no means exhaust the range of medical problems faced by POWs. They were selected because their symptoms are easily observable during confinement, are reasonably consistent with documented information about medical conditions confronting POWs under the circumstances known to exist, and are backed by research evidence and expert opinion. Despite all of these factors, what should be a relatively simple claims procedure becomes an insurmountable obstacle. Winning a claim for more complex medical conditions common to POWs becomes an absolute exercise in futility for these veterans regardless of the merits of their case.

It seems clear that DVB officials have not chosen to take the initiative to modify existing VA regulations or guidelines for rating panels. They seemingly continue to believe that these policies do work despite case after case example to the contrary. There does appear to be a growing readiness on the part of the Board of Veterans Appeals to acknowledge deficiencies in current regulations and to support additional modifications where appropriate. We are appreciative of the responsiveness of that body to the arguments presented by our NSOs that utilize a broader base of evidence than that acceptable to DVB rating panels.

We have not had the opportunity to review the report of the VA POW Advisory Committee on the recommendations of that distinguished body. We are aware that there is a general consensus of the medical/professional experts concerning the likelihood of adverse health residuals of the POW experience in many body systems.

We would urgently recommend that either by expansion of the presumptive list occurring anytime after discharge, or by some equally effective means, service-connection be granted claims for conditions related to hepatitis or to residuals of cold injury. This could be made contingent upon reasonable assumptions that such conditions were entirely consistent with the circumstances of confinement. Also, where significant and prolonged dietary deficiencies existed and were manifested in beriberi or other nutritional diseases during captivity, This be deemed sufficient to service-connect cardiac and neurological disorders developing after service.

In closing, I want to affirm that, notwithstanding their terrible sacrifices, ex-POWs are grateful for the opportunity they had to serve their country in time of war. We are deeply proud of that service. We faced an enemy in combat under the most adverse circumstances and never lost the will to fight on. Capture was invariably the consequence of being severely wounded, out of amunition, positions overrun by overwhelming numbers of well armed forces, or by order of superior officers to stop the needless slaughter of scattered and ineffective remnants of combat units. As the record shows, our fight continued after capture againts a cruel and punitive enemy who cared nothing about the well being or survival of the prisoner. Tragically, thousands did not survive to repatriation. Those that did bear the festering physical and psychological consequences in the chronic anxiety and depression, and in the many medical conditions precipitated or accelerated by those extreme and prolonged hardship.

The plight of ex-POWs grows more severe each day. Even if some win their claims—and this is rare—the process takes months and years, is stressful, and costs the POW and VA many hundreds of dollars. We ask the Committee to recognize both the urgency and rightfulness of our cause, and to enact changes in VA regulations to rectify the deficiencies responsible for this situation.

Mr. Chairman, this completes my testimony and, on behalf of the American Ex-Prisoners of War, I thank the Committee very much.

Attachment

The University of Iowa
Iowa City, Iowa 52242

The University of Iowa Hospitals and Clinics
Department of Internal Medicine

(319) 356-2883
If no answer, 356-1616

May 9, 1983

Kenneth E. Eaton, Chairman
Board of Veterans Appeals
Washington, D.C. 20420

Re: Your File
(011A)
C-7 611 296
STYLES, John D.

Dear Sir:

I have reviewed the record furnished in the case of John D. Styles to find an answer to your question of "whether or not the veteran has clinically demonstrable residuals of frostbite of the feet, hands or ears." The medical content of the document is rather meager apparently in great part due to unavailable prisoner, military and private physician records. However, some significant observations are set forth.

First, there seems to be no disagreement that Mr. Styles suffered severe frostbite of the feet, hands and ears while a prisoner of war in Germany in 1943-44. According to his own statement, he also was exposed to extreme cold for a long period that winter without adequate protection of his feet. He has stated that immediately after freezing them his feet and hands were blistered and infected and that his feet and legs were swollen to the degree that he had to wrap his feet in burlap because he could not wear shoes. He maintains that from that time on he had redness of the skin of the hands and feet, sweating and pain, particularly in the legs and feet. These symptoms are aggravated by cold and have markedly impaired his physical ability to work. These statements are corroborated by fellow prisonors, colleagues and supervisors at work.

There are two questions: (1) Is frostbite (cold injury) followed by clinically identifiable, long term sequelae? and (2) Is there evidence that Mr. Styles has such sequelae?

The pathology of cold injury, including frostbite, has been extensively reviewed by Whayne and DeBakey (Cold injury, Ground type; in World War II; Whayne, Tom F. and DeBakey, Michael E., U. S. Government Printing Office, 1958). They make little distinction between various sub-types of cold injury - freezing, trench foot, immersion foot, etc. Depending upon severity and duration of exposure, there is extensive damage to skin, blood vessels, nerves, muscles, ligaments and tendons. Gangrene (superficial and deep), blistering and secondary infection often follow. Circulatory impairment by arteriolar occlusion and aberrations in sympathetic reflex control are common for months or years after the initial injury. Evasti in an extensive long term study of

812 cases of frostbite with observation times of 5 to 18 years listed the common symptoms and physical signs. (Ervasti, E. Frostbite of the extremities and their sequelae: a clinical study. Acta Chir. Scand. Supplement 299:1-69, 1962). Among these were cold sensitivity in 82% of cases, pain with use in 39%, pain at rest in 16%, color changes in the skin in 73% and hyperhidrosis in 59%. Similarity to Raynaud's phenomenon has led to the use of sympathectomy with indifferent success in long standing cases.

It is evident from the record that Mr. Styles had severe frostbite with damage to subcutaneous tissues (evidenced by marked swelling), blistering, and secondary infection. It is important to note that there was exposure to cold over a longer period than that of the episode of freezing. Subsequently he developed sensitivity to cold, pain (particularly in the legs) and excessive sweating of the feet.

Clinical observations recorded in the record are quite explicit: On 1/20/76 - "History of aching, numbness, tingling from knees down since 1945. Feet sweaty and cold. Refer to C-V Surgery for consideration of sympachectomy;" on 2/25/76 - "C-V Surgery Impression: Post frostbite syndrome; may have Raynaud's response both hands and feet;" on 3/24/76 - "Possible Raynaud's phenomenon secondary to cold injury;" on 11/04/77 - "History of numbness, coldness, throbbing pain in legs and arms since 1945. Impression: post frostbite syndrome."

The diagnosis of the late sequelae of frostbite (cold injury) rests on three things: (1) history of adequate injury, (2) late symptoms of which the most common are sensitivity to cold, pain, numbness and excessive sweating and (3) objective physical signs. The last are very few in number and comprise coldness of the extremity, color changes resembling those of Raynaud's phenomenon and hyperhidrosis. Special circulatory tests are of little diagnostic value.

Mr. Styles had cold injury of the hands and feet which cannot be completely characterized from the record but was certainly severe. He has exhibited and continues to exhibit all the common symptoms of the late effects of cold injury. Clinical observations at V.A. Hospitals have revealed those few objective signs expected. Therefore, it must be concluded that Mr. Styles has the late sequelae of cold injury and that the question of whether he has clinically demonstrable residuals of frostbite of the feet, hand or ears must be answered affirmatively.

Sincerely,

Robert C. Hardin, M.D., F.A.C.P.
Professor, Internal Medicine

RCH/dl

Bill certified to C.O. Finance 6-10-83

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SUPPLEMENTARY REMARKS AND SUMMARY STATEMENT

OF

C. EARL DERRINGTON, JR., NATIONAL COMMANDER,

AMERICAN EX-PRISONERS OF WAR,

BEFORE THE HOUSE VETERANS AFFAIRS COMMITTEE

CONCERNING VA COMPENSATION REGULATIONS

September 22, 1983

1. First, I want to express the deep gratitude of all former POWs for the compassion and support of this Committee resulting in the passage of PL 97-37.

2. That landmark legislation truly opened the doors of the VA health care system to thousands of deserving ex-POWs. In this respect, we are appreciative of the responsiveness of the Department of Medicine & Surgery which has initiated many specific measures consistent with the intent of that legislation.

3. PL 97-37 has also helped many POWs with debilitating and enduring anxiety reactions. We are appreciative of recent steps taken by the Department of Veterans Benefits to clarify that there is often a manifest depressive component that should be accepted by adjudicating personnel as an inherent part of these conditions.

4. However, as significant as these benefits have been, they have had only insignificant impact on the basic issue of determining service-connection for the many medical problems facing POWs. The

POW must still "prove" his claim from non-existent or inadequate service medical records. He must do so regardless of the weight of research evidence or the facts known about conditions in the particular POW camp.

5. Since preparing my formal statement, I have received a copy of the Report of the Advisory Committee on Former POWs, along with VA comments to that report. The Committee has worked very hard and has carried out the mission intended by Congress.

6. All POWs are heartened by the forthright conclusions of the Committee that enduring medical problems are the heritage of the POW experience. In this respect, the unanimous opinion of the five medical members is particularly compelling since their expertise and objectivity cannot be questioned. The recommendations of the Committee—and their pointed comment that POWs cannot wait any longer for equity—would do much to remove remaining barriers to needed benefits.

7. However, we are deeply disappointed by the VA's comments to recommendations pertinent to the determination of service-connection. They both ignore the urgency voiced by the Committee and place such conditions as to completely negate any practical value. Let me give just one example. The Committee's first recommendation is that VA should accept as sufficient evidence that which is already available in the medical literature and found in epidemiological studies. The VA's response was as follows:

> "The VA will grant service-connection for any disease or disability when the medical and scientific communities reach a consensus on a study which is statistically significant, has withstood peer review, and can be duplicated, and which finds that there is a relationship between the POW experience and the disease or disability. Resolution of reasonable doubt is applicable to individual fact situations."

8. Does the VA not accept the unanimous opinion of the Committee's medical experts as representative of the medical and scientific community? Their conclusion is

consistent with the view of every single medical expert in this country and abroad who are knowledgeable about the POW experiences and subsequent health consequences. What further peer review is really necessary?

9. Does the VA--in the face of the urgency identified by the Committee--really mean to insist that further duplication of findings is necessary. It is already too late for many former POWs who died without ever receiving any benefits from VA and the great majority of those still alive are WWII veterans in their 60s.

10. Does the VA still intend to insist on determination of a precise cause and effect relationship with each specific disease? Surely it must know this is not possible at the present time. The medical experts on the Committee have unanimously agreed that there is such a causal relationship even though the exact etiological process has not been defined.

11. By saying that "resolution of reasonable doubt is applicable to the individual fact situation", is not VA failing to offer any realistic approach to a problem it has repeatedly acknowledged to exist even before the Committee was formed? We note that the excellent film "A Flag for POWs" acknowledges this lack of factual evidence for most POWs. However, VA is still insisting on such facts in applying reasonable doubt. I urge you to read the two typical examples presented in our formal statement to see what actually happens in the adjudication process.

12. One cannot help but recognize in the VA's comments an unwillingness to act in a forthright manner consistent with the Committee's findings. It offers no realistic solution to the dilemma faced by POWs in their legitimate claims for service connection.

13. In the name of the thousands of former POWs who need and deserve additional benefits, I urge this Committee to again show compassion--and enact legislation to end these unfair and inappropriate barriers to compensation.

14. "Mr. Chairman, in addition, I would like to bring to your attention a situation where a former prisoner of war does not get the benefits provided under PL 97-37. That law said that any former prisoner of war is eligible for priority treatment, inpatient and outpatient, for any disability whether service-connected or not.

We have a veteran in Mississippi who was held for over three years as a prisoner of the Japanese during World War II. Although he is a United States citizen, is service-connected for two disabilities, and is over 65 years of age, he can receive treatment by the Veterans Administration only for the two service-connected disabilities. This man's problem is that he served in the Commonwealth Army of the Philippines.

I would urge the Committee to give consideration to a change in law to permit any former prisoner of war the full benefits contained in PL 97-37. The problem here is section 107 of title 38 which does not recognize certain Philippine veterans for medical benefits. Our organization believes these former prisoners of war have paid their dues and should be provided the medical benefits specified in PL 97-37. The number of such cases is very small and I would ask that this obvious inequity in the law be removed. I realize this subject is not under the jurisdiction of your Subcommittee, but I want to get it on record that the American Ex-Prisoners of War strongly supports such a change."

Thank you.

THE NON COMMISSIONED OFFICERS ASSOCIATION
OF THE UNITED STATES OF AMERICA

"STRENGTH IN UNITY"

Statement of
Richard W. Johnson, Jr.
National Legislative Director

before the

Subcommittee on Compensation,
Pension and Insurance
Committee on Veterans Affairs

on

Veterans Disability Compensation and
Survivor Benefit Programs

September 22, 1983

NCOA

219 N. Washington S [illegible] (703) 549-0311

Mr. Chairman, the Non Commissioned Officers Association of the USA is grateful for this opportunity to present its views on improvements and modifications to compensation programs for veterans and their survivors. These programs are very important to the more than 250,000 associated members of NCOA.

VETERANS' DISABILITY COMPENSATION

The Association and its members are generally pleased with the structure and operation of the service connected disability compensation program. The smooth processing of claims and payments at the VA is a tribute to both the committee and the Veterans Administration. There remains room for improvement in the reduction of time consumed in claims processing and appeals. However we know of and appreciate actions taken earlier this year to address these problems. The only other item of real concern to the Association is the disparity that exists between the amounts of compensation paid to veterans rated at 90-percent disabled and those rated at 100-percent disabled.

Currently, veterans rated at 90-percent disabled receive payments of $729 monthly. This is approximately $100 more than the amount paid to veterans having disabilities rated at 80-percent. The veteran having a disability rated at 100-percent receives monthly compensation of $1,217, almost $500 more per month than the amount paid to a veteran considered only slightly less disabled. Veterans receiving special monthly compensation receive substantially more than those considered 100-percent. In our opinion the disparity should be rectified by providing slightly larger increases in compensation to veterans with disabilities rated between 40 and 90-percent until such time as a proportionate balance of benefits is achieved at all levels of disability compensation.

Overall we are impressed with the attitude of those involved in providing services in the disability compensation program and are truly grateful for their dedication and understanding. However, there are several areas of concern about survivor benefits upon which we will comment.

NCOA will limit its discussion to three areas of concern. First and foremost, we will reiterate our previous request for a restructuring of the DIC program. Second, the association believes some limits can be placed on "restored" survivor benefits and that widows who remarry after age 60 should be eligible for limited maintenance benefits in lieu of DIC. Finally, NCOA will present the merits of indexing cost-of-living increases in disability and survivor compensation programs.

DIC PROGRAM

DIC payments are the only VA benefit stratified on the rank the deceased veteran held at the time of discharge from service or at the time of death if the veteran died while in service. Yet, DIC payments bear no relationship to either the military pay or the amount of disability compensation paid to the veteran prior to death. In fact, NCOA has tried to determine a logical basis for the amount of payments currently given to survivors but can find none. At one time DIC payments bore some relationship to military pay by design. The current system was structured to replace a portion of military pay and was weighted to provide a larger percentage of pay to the survivors of enlisted personnel. The system has never been related to disability payments, the type or degree of disability suffered by the veteran, the length of time the veteran was disabled or the manner in which the disability was incurred.

The real travesties of the DIC program can best be illustrated by a few examples:

> A sergeant first class on active duty earns more in military pay than a second lieutenant but if both die in a common action, the survivor of the second lieutenant receives a larger DIC payment.
>
> Two soldiers, one a corporal the other a colonel, are permanently and totally disabled in a common action. During their lifetime, each receives $1,213 in monthly compensation payments. After their death the colonel's spouse will

receive $817 monthly, almost 70-percent of the colonel's disability benefit. The corporal's survivor will receive $500 monthly; about 40-percent of the veterans' compensation.

A totally disabled veteran who was a corporal at the time of discharge succumbs to his disability twenty years after discharge. Prevented from working by his disability, the veteran is unable to provide an estate. The surviving spouse will receive DIC based on a rank the veteran held twenty years prior to death.

Mr. Chairman, we freely admit it is easier to identify the problems in the system than it is to offer a solution. It is virtually impossible to suggest a solution that has not previously been considered. Still, several ideas currently seem popular. One suggests the conversion of DIC to a needs based program. This would certainly be a departure from the aristocratic method of paying on distinctions drawn from military rank.

Notwithstanding studies that demonstrate officer's spouses generally have higher educations, higher individual earning potential, fewer dependents, and larger estates the DIC program also provides them higher benefits than paid to the survivors of enlisted personnel. Perhaps the most distressing factor in the stratification of benefits is the social implication of providing compensation that acknowledges ". . .the manner of life of an officer's family [is] such that considerable money would be needed to maintain the same social relations after the officer's death. . ." as was discussed during debate on the enactment of the current program. Such an attitude employs the same logic as paying an officer more in hazardous pay for parachuting from the same airplane, under the same circumstances as an enlisted counterpart. The officer assumes no greater risk, nor does he have any greater responsibility during such a maneuver. This aristocratic inversion to need is regretable but does not support a conversion to a needs based program. Nevertheless a balance of benefits must be achieved.

In considering DIC reform alternatives, NCOA began looking for a statement of purpose for the DIC program. The only guidance provided in law is a definition which says DIC is paid to the survivors of veterans who die as a result of a service connected cause. Nothing actually tells why DIC is paid or how amounts should be determined. Is it a maintenance program? Should it be total support or merely subsistence income? Depending on the veterans rank it is all these, but not to all people. The VA's creed is ". . .to care for him who has borne the battle and for his widow and child." Regretably Mr. Lincoln did not suggest what level of care should be provided.

A look at the history of the DIC program provides no answer about the extent of survivor benefits intended. If anything, the legislative history of survivor benefits suggests only that payments were provided as the economy allowed; generously at times and more conservatively most of the time. Indemnity is defined as repayment or reimbursement for loss presumably at a level equal to the loss. That of course leads to the most debatable of all issues under consideration--assigning a value to human life.

Mr. Chairman, this brings us to our point. It is not possible to assign a dollar value to human life. And since that is not possible it is truly unreasonable to suggest a graduated scale of compensation to survivors. Accordingly, as in the past, NCOA continues to favor a flat rate DIC payment for all survivors. Such a system, taken in concert with social security payments, is the most equitable program available.

There still remains a question of how to determine the appropriate amount of compensation. Several of the suggestions the committee will receive involve basing DIC payments on a percentage of disability income received by the veteran. Since active duty service members do not receive such payments some special accommodation would have to be made for them. It is very easy to find fault in a system that determines the survivor of a veteran who dies from a 50-percent disability should get less than the survivor of a veteran who dies of a 100-percent disability who should get more or less than a service member who dies on active duty. It remains that the veteran died as a result of service in the armed forces and 100-percent disability is about as close to death as the system allows us to measure. It is therefore reasonable to base DIC payments on a percentage of total disability compensation. This of course, is an expensive proposition even if only 50-percent of the current 100-percent disability compensation rate is paid. Nevertheless, we believe this is the most concrete foundation upon which an equitable program can be built.

Notwithstanding our continued support for a flat rate system as the most equitable we recognize that alternatives will be considered. However, even the alternatives could be based on the same flat rate system. For example, if the committee decides there exists some special reason to provide additional compensation to the survivors of a veteran whose disability existed for a substantial period of time, such could be accomplished by providing a percentage increase for each year the disability existed. Compensating the survivors of active duty members who die in service could be done in the same manner. Any number of variables perceived by the committee can be accomodated in this way, but with each special category of recognition the committee provides, arguments of inequity will grow.

NCOA knows an immediate conversion to a flat rate system is not possible. We also suspect it would be cost prohibitive. However, by capping the benefits of those who exceed the flat rate and by limiting increases in benefits among those who have not achieved the flat rate to a specific and reasonable annual rate, a flat rate system could be phased in over a period of time. Even new applicants could be limited to payments given currently for the rank of the deceased spouse during the phase in period.

Finally, the Association is not insensitive to the desires of disabled veterans and service members who want to provide the best possible benefit to a survivor. Too often the ability to provide insurance annuities or endowments is encumbered by the inability to identify affordable plans or because the veteran is ineligible due to his disability. VGLI and SGLI are not adequate to meet the full insurance needs of veterans or servicemembers. Social security benefits, which should be considered when determining the adequacy of flat rate DIC payments, is only a part of a reasonable compensation package for survivors. Therefore, NCOA believes the committee may consider embellishing a flat rate DIC program by providing a supplemental and contributory survivors benefit program similar to the one offered military retirees.

Offering a plan such as this would allow individual veterans to decide how to provide for their survivors. Since the basic flat rate benefit would not be affected by such a plan, survivors would be guaranteed a reasonable benefit even if the veteran does not enroll. The potential for a self supporting plan exists, but a federally supplemented plan would also be reasonable. As in the military's survivor benefit plan, the veteran would accept some risk since such a system would provide no refunds if the veteran is pre-deceased by the survivor. However, if death is not related to disability a refund of premiums may be authorized. These risks can be used to adjust enrollment premiums. For active duty service members, a minimum supplemental enrollment could be presumed if death occurs in service or supplemental indemnity coverage could be sold in a manner similar to the sale of war risk insurance.

REMARRIAGE AND RESTORED BENEFITS

Mr. Chairman, our second area of comment concerns a proposal to allow widows receiving DIC to remarry after age 60 without a loss of benefits and a General Accounting Office report (B-206911 dated May 27, 1983) discussing restored benefits for widows whose remarriages end.

The GAO report provides some alarming statistics, not because of the numbers of widows involved, but in the figures that accompany those numbers. According to GAO, about 1264 widows receive restored DIC benefits each year. This amounts to slightly more than 4 percent of DIC claims annually which is certainly not a figure that would cause alarm. However, 66 percent of all claims are received from widows whose remarriages lasted more than five years. The truly alarming figure is that 38 percent of widows receiving restored benefits were married to the veteran for less than five years. In other words most widows receiving restored benefits were married to second or subsequent husbands for a longer period than they were married to the veteran yet they receive full survivor benefits without regard to estates or settlements received from the second marriage. This seems to us to go beyond the scope of providing indemnity benefits to veterans survivors.

To correct this problem, NCOA recommends prospective legislation limiting the restoration of DIC payments to widows with dependent children of the veteran until such time as the youngest child of the veteran reaches age 18. All other widows applying for restored survivor benefits should be limited to needs based pension benefits.

The related subject of providing for the continued payment of DIC benefits to survivors who remarry after age 60 is also distressing. Those who favor the legislation argue that social security recipients and military survivor benefit plan recipients are allowed this privilege. They fail to recognize these plans received contributions from the deceased and are not indemnity plans. NCOA is does not believe it is the responsibility of the VA to provide income to an elderly couple simply because of age and a past marriage to a veteran. This would be poor stewardship of both the DIC program and taxpayer money. As a result, NCOA is strongly opposed to the passage of such a proposal.

In summary, both circumstances go beyond the scope of providing true indemnity compensation to survivors. Because of the unusual nature of these benefits and our comments we have coordinated our presentation with the leadership of NCOA'S International Auxilliary. Our comments this morning have their full support. Accordingly, NCOA will support committee actions to reduce or prevent such abuses.

INDEXING

This committee and its Senate counterpart have amassed an outstanding record of providing for the continuous review of the veteran's disability compensation and DIC programs. The efforts of Congress to keep these benefits at reasonable levels and to provide adequate COL adjustments is commendable. However, NCOA remains concerned about the method of providing annual adjustments in these benefits.

We have watched for years as Congress has gone through all manner of activity to reach agreement on the amount of adjustment made in disability and dependency compensation programs. With rare exception Congressional actionhas resulted in an increase equivalent to amounts given in federally indexed programs.

It has been a stated fear of this committee and some of our brother organizations that a move to indexing of these programs would result in less frequent reviews of the programs' adequacy and structure. We do not believe this will happen. The committee takes its responsibility to the veteran too seriously to allow this to happen. Additionally, the committee will have the constant encouragement of veterans' organizations to provide reviews as necessary.

Currently, veterans compensation is one of the few programs in government not protected by indexing. Even private industry is moving with aclarity toward indexing worker benefits, retirement and compensation programs to indexed systems. A recent magazine article estimated more than 55 percent of all civilian retirement and compensation programs provide for automatic and predictable increases through indexing. Even non service connected veterans pension benefits are indexed allowing beneficiaries of this program greater income protection than is given to veterans with service connected disabilities who must depend on a positive action of Congress to provide an annual adjustment in compensation benefits. NCOA believes all veterans should be given the same protection.

CONCLUSION

The association has expressed several concerns regarding the structure and circumstances under which DIC benefits are paid and we have also asked the committee to consider the implementation of an indexing program to protect veterans and their survivors. We believe our recommendations are reasonable and deserving of the committee's consideration. As always, NCOA will be most pleased to assist the committee in any way possible.

Thank-you.

BLINDED VETERANS ASSOCIATION
1735 DeSALES STREET NORTHWEST • WASHINGTON D C 20036 • (202) 347-4010

STATEMENT OF ELLSWORTH L. SHARPE, IMMEDIATE PAST NATIONAL PRESIDENT, BLINDED VETERANS ASSOCIATION BEFORE THE SUBCOMMITTEE ON COMPENSATION, PENSION, AND INSURANCE, COMMITTEE ON VETERANS AFFAIRS U.S. HOUSE OF REPRESENTATIVES SEPTEMBER 22, 1983

Mr. Chairman and Members of the Committee:

Thank you very much for the opportunity to appear before you today. On behalf of the Blinded Veterans Association, I want to commend this subcommittee for holding this oversight hearing today on the VA's compensation program.

It is especially important that this subcommittee has invited organizations, like the BVA, which work directly with service-connected disabled veterans and have a first-hand understanding of the impact of compensation and the levels of compensation on the lives of disabled veterans and their families.

The VA's compensation system is a matter of great importance to the BVA. As many of you know, we have pressed in recent years for specific changes in Title 38, Section 314 that impact on service-connected blinded veterans. These changes have not been costly ones, but they would ensure the more equitable treatment of blinded veterans.

We have argued for years that some sections of the compensation system do not adequately recognize the severity of blindness as a disabling condition.

We worked very hard with members of this subcommittee and the full committee last year to effect two significant changes in Title 38, Section 314. As a result of one change approved by Congress last year, blinded veterans without light perception, who previously had been classified identically as blinded veterans with light perception under Subsection "m" of Title 38, Section 314, were reclassified under Subsection "n" with veterans who suffered the anatomical loss of their eyes or extreme disfigurement. A second change provided additional compensation to service-connected blinded veterans who also had lost a hand or foot.

Also introduced last year but not approved was legislation that would increase compensation payments to service-connected blinded veterans who have a hearing impairment. However, identical legislation was introduced this year which was considered by this subcommittee several months ago and language was included in mark-up of the compensation bill this year.

I want to thank this subcommittee for its action this year on this legislation. According to the language in the compensation bill, a blinded veteran with light perception or less would receive maximum compensation if he also had a hearing disability rated by the VA at 10 per cent. The legislation also would provide additional benefits to a blinded veteran with 5/200 visual acuity. The bill would provide compensation at the next higher rate if such a veteran had a hearing disability rated by the VA at 30 per cent. Currently, Title 38, Section 314 provides the maximum compensation only if the veteran has a hearing disability rated at 60 per cent.

The BVA believes that this language represents a significant step on the part of the Congress in recognition of the severity of a combined blindness and deafness disability. The legislation recognizes that even a slight hearing impairment in a severely blinded veteran can mean the difference in that veteran's ability to live a productive, safe, and independent life.

Although we applaud this committee's action on this legislation, this issue is not yet resolved. The Senate Committee on Veterans Affairs, in the mark up of a compensation bill, included language that is diametrically opposed to the concepts embodied in the House version. The Senate bill provides that blinded veterans with 5/200 visual acuity or less receive maximum compensation if they have a hearing disability rated by the VA at 40 per cent. We do not support this proposal. The chart attached to our testimony as Appendix I outlines which blinded veterans would benefit from the House version and the Senate version. As the chart indicates, those who do not receive any additional compensation according to the Senate version are those who are the most severely blinded veterans with hearing disabilities rated by the VA at less than 40 per cent. The Senate version simply does not address the problem raised in the legislation, as originally introduced, since those in the most need of more equitable treatment are ignored by the Senate language.

The legislation which we originally supported (HR 2187 and S 1187) proposed that blinded veterans with 5/200 visual acuity receive maximum compensation if they have a hearing disability rated by the VA at 20 per cent. We still support the original concept of that legislation--that blindness at 5/200 visual acuity or less--is a severely disabling condition when combined with a hearing impairment. If Congress considers it necessary to decide between the groups of veterans to be served, however, the BVA feels very strongly that the more severely disabled blinded veterans should receive special attention.

The VA's ratings for hearing disabilities in the compensation system can be very misleading. It is important to remember that percentages assigned to hearing disabilities by the VA do not correspond to a percentage of actual hearing loss or residual hearing. A 60 per cent hearing disability rating does not mean a 60 per cent hearing loss or a 60 per cent residual hearing level. Actually, a hearing disability rated by the VA at 60 per cent means almost total deafness, according to the VA's diagnostic rating schedule, and a hearing disability rated by the VA at 80 per cent is total deafness. Also, the VA has no hearing disability rated at 50 per cent. Total loss of hearing in one ear is rated by the VA at 10 per cent. In other words, the disability rating assigned by the VA does not reflect the severity of hearing loss or the amount of residual hearing.

The BVA has said on several occasions before this subcommittee that it does not take a hearing disability rated by the VA at 60 per cent, as current law states, to make the hearing loss a major disability for a blinded person A hearing loss rated by the VA at 10 per cent can cause distortions of ambient sound, directional hearing problems, and force a blinded person to live in jeopardy and fear for his well-being even in the course of ordinary living activities.

The language in the Senate version of the compensation bill is simply inadequate. We raise this issue at this time in hopes that the members of this subcommittee will work to help educate their Senate colleagues during the conference committee process.

One means of resolving these differences would be for the House and Senate to combine the language of the two bills. According to such a change, the House language would remain intact. That is, blinded veterans with light perception or less would receive maximum compensation with a hearing disability rated at 10 per cent. Adding the Senate language would make it possible then for blinded veterans with 5/200 visual acuity to receive maximum compensation with a hearing disability rated at 40 per cent. Both versions contain language to make it possible for blinded veterans with 5/200 visual acuity to be raised one step if they have a hearing disability rated at 30 per cent.

Such a compromise 1.) would fairly resolve differences between the two bodies and 2.) adequately meet the special needs of service-connected and severely blind and hearing impaired veterans whose disabilities have not been recognized sufficiently by the disability compensation system.

All in all, however, we applaud this committee for its dedication in developing a resolution to this inequity that now exists in Title 38, Section 314.

However, the BVA would like to indicate two other problems with the compensation schedule. We are concerned about the way the schedule treats blinded veterans with losses of visual field and acuity and who have severe field defects. These items currently fall within the jurisdiction of the VA administrator, but historically, the VA administrator has not taken any steps to resolve the problem. Therefore, we continue to prevail upon Congress to make the needed adjustments in the compensation schedule.

The VA's disability rating schedule and regulations contain no provision to rate the loss both of visual field and visual acuity. However, the two occurring in combination are considerably more handicapping than either occurring alone. We urge that the schedule be amended so that blinded veterans with the loss of both visual acuity and visual field be rated as more disabled.

And the schedule does not adequately compensate blinded veterans who suffer from severe field defects. The normal visual field is 180 degrees. This translates into an ability to see everything--with the exception of what is behind you--without turning your head. When a veteran has a field defect such that the widest diameter of visual field subtends an angular distance less than 10 degrees, that is a severe disability. We think he should be rated 100% disabled. Similarly, we feel that a veteran whose visual field subtends an angular distance no greater than 10 degrees should be rated 90% disabled and a veteran with a field of vision no greater than 15 degrees should be rated at 80% and a veteran with a field of vision no greater than 20 degrees should be rated as 70%.

Perhaps, the best way to convey to you the essence of a limitation in visual field is for you to imagine driving through a tunnel. What you see from side to side is limited by the walls of the tunnel. You are surrounded by the walls of that tunnel until you reach the end; then, you can see what lies on either side of the roadway. Someone with a loss of visual field, essentially, never comes out the tunnel. His vision always is limited by such walls.

We suggest these changes to improve Title 38, Section 314 because they recognize the unique nature of blindness as a disability and improve the credibility of Title 38, Section 314.

Another very important concern of the BVA with the disability compensation system concerns the aid and attendance award for service-connected disabled veterans. We believe that blinded veterans rated under subsection (n) of Section 314 should be eligible for the lower amount of aid and attendance provided under subsection (r).

Such a change in the system would be consistent with the philosophy and rationale behind the VA Rating Schedule. The schedule was designed to reflect average economic loss. Yet, it has long been recognized that the blind experience greater difficulty locating jobs and maintaining a regular income than any other segment of the disabled population.

Sighted people--even sighted people who suffer from some other form of disability--take many things for granted, such as minor home repairs and maintenance, paying bills, driving a car, and reading. However, these are daily living activities for which blinded veterans need help. Many people think of aid and attendance only in terms of medical care. Many who now receive aid and attendance use it to defer expenses for daily living activities. Aid and attendance could help a blinded veteran with expenses for reading, bookkeeping, transportation and other Activities of Daily Living (ADL).

No issue presents more of a dilemma in the consideration of the compensation system than Dependency and Indemnity Compensation (DIC). It is generally considered that the current system for payment of DIC benefits needs to be reviewed. Also, it seems apparent that there is no real consensus as to how the system should be changed to adequately reflect the needs of visually disabled veterans' families.

It is our feeling that the present rate schedule for the payment of dependency and indemnity compensation benefits to surviving spouses and dependents is unfair and should be amended.

DIC rates are determined by the highest rank or grade held in the Armed Forces by the disabled veteran, whereas disability compensation is paid in like amounts for like disabilities. It does not stand to reason that the surviving spouses of disabled veterans should be paid different amounts when those same veterans were paid equal amounts during their lifetimes.

The present policy is based on the rationale that DIC is compensation for lost earnings and that there is a correlation between military pay levels and levels of post-service earnings. Its supporters argue that it would be inequitable to ignore service pay grades in the DIC schedules because a veteran who served in a higher military pay grade probably experienced a greater loss of potential earnings than a veteran who served in a lower pay grade.

We are not convinced that this argument has merit, except for those who are career service people. From our experience, the previous military grade earned by a veteran and his financial status at the time of death, for the most part, do not have a strong relationship unless the death occurred while on active duty. Also, there is not a strong relationship when that service occurred 30 and 40 years earlier. Moreover, we believe that the greater inequity is that the survivors of two disabled veterans, who, as far as compensation is concerned, are equal other than their former military pay grades, are treated unequally.

The BVA recommends amending Title 38 by changing the DIC rate for a surviving spouse of a veteran receiving 100% compensation to 50% of the compensation paid to the deceased veteran plus dependency allowance. This would eliminate this discrimination in the current law.

However, we stand ready to work with this subcommittee to consider any changes in DIC which could make the system more equitable--even if these suggested changes are not identical to the ones we propose today.

Although this hearing is to consider only service-connected compensation and DIC today, we would like to take a brief moment to raise an additional point that deserves consideration from this subcommittee--especially at this time when our nation has committed military forces on various fronts across the globe. That is the issue of a pension for veterans with a non-service connected disability.

The VA currently awards pensions to veterans with a non-service connected disability if their military service occurred during time of a war. It is important to recognize that our armed forces on occasion are called into armed conflicts between nations and within nations to defend freedom and to enforce peace. Yet, these conflicts are not recognized by the VA as wars so that the veterans who served in these conflicts would not be eligible for a disability pension. This is true of the two current conflicts in which the U.S. has now engaged some military forces--the Lebanon crisis and the conflict in El Salvador. In both cases, our armed forces are being engaged in war-like settings with all the consequences of war, including physical injuries and deaths.

However, our involvement in military conflicts during periods of peace is not unique. Since World War II, U.S. fighting men have served in war-like settings in Lebanon, during the Berlin airlifts, and in the Dominican Republic.

The BVA believes that a pension should be made available to non-service connected disabled veterans whether they served in a time of peace or not. Eligibility for most other veterans' benefits programs is based on honorable service to the country whether this be in time of war or peace. Thus, we believe that eligibility for pension benefits should adhere to the same principle.

Additionally, it is important to note that nearly one-quarter of the time considered wartime is actually peacetime. In effect, some who actually served in time of peace receive pensions as if they served in wartime. In some instances, some veterans have missed wartime cut-off dates by only a day or two days. Yet, as the current military situations in Lebanon and El Salvador indicate, some veterans actually serve in war-like situations, yet they will not be eligible for a disability pension because the U.S. was in a peacetime period. This is basically unfair and it needs to be addressed by this committee as part of the Congress' consideration of current American involvement in the Lebanon and Central American crises.

I have outlined several items today that the BVA has cited on other occasions before the full Committee.

Again, the BVA applauds this subcommittee's decision to hold an oversight hearing on the disability compensation system and DIC.

Careful scrutiny of this system is necessary to ensure that it remains responsive over time to the needs of disabled veterans.

Thank you very much for the opportunity to appear before you today and I will be very happy to answer any questions that you might have. The BVA also welcomes any questions that any members of the subcommittee would rather submit in writing.

APPENDIX I.

Comparison of House and Senate Language in Compensation Bill Affecting Blinded Veterans with Combined Hearing Disabilities

No. Blinded Veterans	Current Rating for Blindness	Blindness Condition (Description)	Deafness Disability Rating	Current Schedule Rating as Affected By Hearing Disability	Proposed Rating (House)	Proposed Rating (Senate)
3	N	Anatomical Loss	10% (uni-lateral)	N 1/2	0	0
6	M	Light Perception	40%	N	0	0
5	M	Anatomical Loss Light Perception	10% (uni-lateral)	M 1/2	0	N
4	M	Light Perception	30%	No change	0	N
6	M	Light Perception	20%	No change	0	No change
10	M	Light Perception	10% (bilateral)	No change	0	No change
6	M	Anatomical Loss and 5/200	40%	N	No change	0
1	M	Anatomical Loss and 5/200	30%	No change	N	N
5	M	Anatomical Loss and 5/200	20%	No change	No change	No change
6	M	Anatomical Loss and 5/200	10% (uni-lateral)	M 1/2	No change	N
5	L 1/2	Light Perception and 5/200	40%	M 1/2	No change	0
4	L 1/2	Light Perception and 5/200	20%	No change	No change	No change
1	1	5/200	40%	M	No change	0
1	1	5/200	20%	No change	No change	No change
2	1	5/200	10% (uni-lateral)	L 1/2	No change	M

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"The Serviceman's Voice in Government"

"Established 1968"

Statement of

Max J. Beilke
Legislative Counsel

The National Association for Uniformed Services

Before the

Subcommittee On Compensation, Pension and Insurance

Committee on Veterans' Affairs

U.S. House of Representatives

Sept. 22, 1983

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Oversight Hearing On The Compensation Program
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Sept. 22, 1983

Oversight Hearing On The Compensation Program

Mr. Chairman, and members of the Subcommittee, I welcome the opportunity to present the views of the National Association for Uniformed Services to this distinguished panel.

The National Association for Uniformed Services (NAUS) is unique in that our membership represents all ranks of career and non-career serivce personnel and their wives and widows. Our membership includes active, retired, and reserve personnel of all seven uniformed services: Army, Navy, Air Force, Marines, Coast Guard, Public Health Service, and the National Oceanic and Atmospheric Administration. With such a membership, we are able to draw information from a broad base for our legislative activities.

My testimony this morning will cover three aspects of the Dependency and Indemnity Compensation (DIC) Program. These aspects are:

1. Bases for DIC rates.
2. Future adjustments to DIC rates.
3. Remarriage of DIC widows.

Dependency and Indemnity Compensation surviving spouse rates are based solely on the military pay grade of the deceased. This is the only benefit administered by the Veterans Administration calculated in that manner. The National Association for Uniformed Services (NAUS) has for years supported the idea that DIC rates should have more than a simple military pay grade criteria for calculating the amount of compensation. Under the current criteria, consideration is not given to the veterans length of service or conditions and circumstance surrounding the cause of death. It hardly seems fair that an identical DIC rate should be awarded to the widow of a veteran with 19 years service and the widow of a veteran with six years of service. Neither does it seem equitable that the widow whose husband was a life-long smoker and died on active duty from lung cancer receives the same compensation as one who died in combat or from combat related injuries. Yet, these are real situations because if the deceased's pay grades were identical, the DIC benefits are identical.

NAUS continues to support a proposal that primary compensation of a fixed and minimum amount be payable to all DIC widows. This primary amount would be to compensate for the only aspect that is identical among all widows; that is, the death of a husband. Secondary compensation with consideration given to pay grade, length of service, cause of death, and condition or circumstance leading to cause of death would be in addition to the primary amount. This system would allow the Veterans Administration to compensate differing amounts to the widow of a veteran (pay grade E-4) killed on active duty vice that of a 55 year old widow of a veteran (pay grade E-4) who has spent 30 years caring for a service-connected paraplegic.

For those individuals who claim DIC is compensation for loss of income, I have included a chart as Inclosure 1. This chart illustrates that using the minimum base pay an active duty veteran receives, DIC replaces anywhere from 78% of base pay for an E-1 to only 24% of that for a general. Further, as base pay increases according to length of service, DIC will replace for some pay grades an even smaller percentage of active duty pay at time of death. There is an additional column on Inclosure 1 that I would like to draw your attention to. This column illustrates the amount of Survivor Benefit Plan (SBP) payable to a veteran who dies on active duty with 20 years of service. Once again, these are minimum base pay figures by paygrade with 20 years of service. You will notice that only in pay grades E-1 through E-4 is DIC greater than SBP. As you know, if eligible for both benefits, a widow will have the amount of DIC subtracted from her SBP. Therefore, in the case of an E-7's widow, she would receive $552 in DIC and $263.93 in SBP for a total of $715.93. Except for the tax exempt advantages of DIC, DIC has diminished value once the veteran reaches the 20 year mark and eligibility for SBP to his widow is established.

The second aspect to be discussed is future adjustments to DIC. NAUS continues to support automatic adjustments based on the Consumer Price Index (CPI) as is currently being accomplished for Social Security beneficiaries. Such automatic adjustments should be applied only to the primary compensation payable under the proposed restructure of DIC rates previously described.

Finally, another aspect of DIC which NAUS has long supported is allowing DIC widows to remarry after age 60 without losing entitlement to DIC. Currently, Social Security and SBP widow beneficiaries may remarry after age 60 without losing eligibility for their benefits. At this juncture, I would like to point out, that for the widow eligible for DIC and SBP if DIC is lost because of remarriage, her loss is minimal because SBP will be restored to its full amount. Take the case of the E-7's widow I previously described. If she remarries after age 60, the $522 DIC will terminate, however, the reduced SBP of $263.93 will be restored to the full amount of $815.93. Basically, she only loses the tax advantage of DIC.

To those who argue that if a DIC widow remarries, her new husband should take over the role, formerly borne by the Federal Government of supporting his wife, I reply, if that remarriage is dissolved, why then is DIC reinstated? Are they saying the new husband has a responsibility only as long as he is alive, but it is absolved at death? It is rather difficult to explain why DIC is reinstated when a remarriage is dissolved after it conceivably could have lasted 30, 40, or 50 years yet it is denied to a widow remarrying after age 60 when DIC may constitute a major portion of the widow's income. Further, we are not talking about a large number of widows. The Statistical Abstract of the United States 1982-83, 103rd edition on page 30 states 19.6% of widows are age 59-64; 32% age 65-74 and 36.4% over age 75. Realistically, remarriage of widows over age 75 is hardly significant. What is significant is the 60-74 age group. Because figures for this age group are unavailable, a figure of 40% for widows age 60-74 appears a realistic calculated guess. Further, a total percentage of 76% (40% age 65-74 and 36% age 75 and over) compares with the percentage of DIC widows whose husbands served in World War II and prior. Therefore, of the 245,679 DIC widows (VA figures as of April 27, 1982) approximately 98,272 are age 60-74. "Older Women: The Economics of Aging," a report published by the Womens' Studies Program and Policy Center at George Washington University, states the annual marriage rate per 1,000 females age 55 and over is 2.4. This amounts to 236 remarriages the first year. With an annual death rate of 3868.3 per 100,000 females age 65 and over, the death rate per 1000 DIC widows should offset any increase in expenditures in the DIC program if benefits were to be continued when remarriage is after age 60.
The death rate is shown only so that you can see a comparison between the death rate and remarriage rate.

There is another aspect we also need to review. While 80% of all DIC widows are widows of enlisted personnel, only 75% of the total DIC benefit cost goes to this group. Further, 48% of all DIC widows are in the lowest four rate category. Therefore, of the 236 remarriages, 113 should be in the lower four rates for a total monthly cost of approximately $49,000. My point is we are not talking about "big bucks".

For information on percentage of DIC recipients by grade and total monthly DIC costs, attached as Enclosure 2 is a chart NAUS compiled from data made available by the VA. I am also enclosing a chart (Enclosure 3) showing by grade and total numbers of DIC recipients with percentage of females age 60 and over and what the costs are when the 2.4% remarriage factor is applied.

I am fully cognizant of the fact that the national averages and percentages extracted from the Statistical Abstract of the U.S. used in NAUS calculations are somewhat more liberal than those which resulted in a study conducted by the VA in 1976. In that study, Senate Committee Print No. 14, "Evaluation of Benefits under the Dependency and Indemnity Compensation (DIC) Program," January 31, 1976, it was found that less than one percent of the DIC widows remarried. Of those that remarried, 16% were age 60 or over. Further, 44% of these were widows of veterans grade E-1 - E-4, and 9% in grades 04 - 010. Using these figures, the cost factor will be even lower than projected. Another factor why the remarriage of widows is relatively low, is the number of widows compared to the number of widowers. These figures are also extracted from the Statistical Abstract.

AGE	WIDOWERS PER 1000	WIDOWS PER 1000
55 - 64	410	2,128
65 - 74	551	3,524
75 and over	745	3,949
TOTAL	1,706	9,601

By pure numbers of eligibles, the remarriage possibilities of DIC widows are low.

In closing, I congratulate the committee for holding oversight hearings on the DIC program. This illustrates your concern for this program and the need for equitable change. I appreciate the opportunity to present the views of NAUS and thank you for your consideration and hospitality. At this time, I am prepared to respond to your question.

MILITARY GRADE	DIC	MINIMUM BASE PAY	DIC AS A % OF MIN. BASE PAY	BASE PAY 18 YRS. SERV.	DIC AS A % OF BASE-PAY - 18 YRS. SERV.	SBP BASED ON BASE PAY/20 YRS SERVICE
E-1	$445	$ 573.60	78%	$ 573.60	78%	$ 315.60
E-2	459	642.90	71%	642.90	71%	353.60
E-3	470	668.40	70%	762.30	62%	419.27
E-4	500	709.50	70%	888.60	56%	488.73
E-5	514	760.80	68%	1,102.80	47%	606.54
E-6	526	866.40	61%	1,299.30	40%	714.62
E-7	552	1,007.40	55%	1,464.60	38%	815.93
E-8	582	1,443.00	40%	1,640.70	35%	924.66
E-9	608	1,720.20	35%	1,881.30	32%	1,054.85
W-1	563	981.00	57%	1,603.50	35%	913.44
W-2	586	1,177.50	50%	1,734.90	34%	984.39
W-3	603	1,344.30	45%	1,919.70	31%	1,096.76
W-4	639	1,479.00	43%	2,196.30	29%	1,247.24
O-1	563	1,098.90	51%	1,382.40	41%	760.32
O-2	582	1,265.70	46%	1,752.60	33%	963.93
O-3	622	1,451.70	43%	2,361.90	26%	1,299.05
O-4	658	1,562.10	42%	2,731.20	24%	1,502.16
O-5	726	1,853.40	39%	3,063.30	24%	1,735.64
O-6	817	2,317.20	35%	3,414.60	24%	1,918.62
O-7	884	3,126.30	28%	4,555.80	19%	2,505.69
O-8	969	3,762.30	26%	4,791.60	20%	2,635.38
O-9	1041	4,154.10	25%	4,791.60	22%	2,635.38
O-10	1139	4,686.90	24%	4,791.60	24%	2,635.38

Military base pay and DIC payments are based on 1982 payment scales.

Inclosure 1

MILITARY GRADE	DIC RECIPIENTS	% OF RECIPIENTS BY MILITARY GRADE	% OF RECIPIENTS BY GROUP	TOTAL MONTHLY COMPENSATION	% OF COMPENSATION BY MILITARY GRADE	% OF COMPENSATION BY GROUP
E-1	39,893	16%		$ 17,752,385	14%	
E-2	28,111	11%		12,902,949	10%	
E-3	24,854	10%		11,681,380	9%	
E-4	23,867	10%	48%	11,933.500	9%	42%
E-5	24,824	10%		12,759,536	10%	
E-6	23,754	10%	20%	12,494,604	10%	19%
E-7	24,432	10%		13,486,464	10%	
E-8	4,360	2%		2,537,520	2%	
E-9	2,130	1%	13%	1,295,040	1%	13%
W-1	1,154	1%		649,702	1%	
W-2	1,878	1%		1,100,508	1%	
W-3	890	0%		536,670	0%	
W-4	960	0%	2%	613,440	0%	2%
O-1	3,790	2%		2,133,770	2%	
O-2	6,723	3%		3,912,786	3%	
O-3	10,240	4%	8%	6,369,280	5%	10%
O-4	8,839	4%		5,816,062	4%	
O-5	7,989	3%	7%	5,800,014	4%	9%
O-6	6,026	2%		4,923,242	4%	
O-7	424	0%		374,816	0%	
O-8	418	0%		405,042	0%	
O-9	93	0%		96,813	0%	
O-10	30	0%	3%	34,170	0%	5%
TOTAL	245,679			$ 129,609,693		

Inclosure 2

NUMBER OF DIC RECIPIENTS

196,225	DIC Recipients of Enlisted
4,882	DIC Recipients of Warrant Officers
44,572	DIC Recipients of Officers
245,679	

80%	DIC Recipients of Enlisted
2%	DIC Recipients of Warrant Officers
18%	DIC Recipients of Officers
1 00%	

DIC COSTS

$ 96,843,378	DIC Recipients of Enlisted
2,900,320	DIC Recipients of Warrant Officers
29,865,995	DIC Recipients of Officers
$ 129,609,693	

75%	DIC Costs to Recipients of Enlisted
2%	DIC Costs to Recipients of Warrant Officers
23%	DIC Costs to Recipients of Officers
1 00%	

MILITARY PAY GRADE	TOTAL DIC WIDOWS	AGE 60 & OVER (68.9%)	DEATH RATE AGE 65-74 (3868.3 PER 100,000)	REMARRIAGE RATE AGE 60 & OVER (RATE 2.4 PER 1000)	DIC RATE	TOTAL AMOUNT
E-1	39,893	27,486	1,063	66	$415	$ 27,390
E-2	28,111	19,368	749	46	428	19,688
E-3	24,854	17,124	662	41	438	17,958
E-4	23,867	16,444	636	39	466	18,174
E-5	24,824	17,104	662	41	479	19,639
E-6	23,754	16,367	636	39	490	19,110
E-7	24,432	16,834	651	40	514	20,560
E-8	4,360	3,004	116	7	542	3,794
E-9	2,130	1,468	57	4	567	2,268
W-1	1,154	795	31	2	525	1,050
W-2	1,878	1,294	50	3	546	1,638
W-3	890	613	24	1	562	562
W-4	960	661	26	2	595	1,190
O-1	3,790	2,611	101	6	525	3,150
O-2	6,723	4,632	179	11	542	5,962
O-3	10,240	7,055	273	17	580	9,860
O-4	8,839	6,090	236	15	613	9,195
O-5	7,989	5,504	213	13	676	8,788
O-6	6,026	4,152	161	10	761	7,610
O-7	424	292	11	1	824	824
O-8	418	288	11	1	903	903
O-9	93	64	2	0	970	-0-
O-10	30	21	1	0	1, 061	-0-
TOTALS	245,679	169,271	6,551	405	14,022	$ 199,313

nclosure 3

STATEMENT OF
JOHN F. HEILMAN
NATIONAL LEGISLATIVE DIRECTOR
DISABLED AMERICAN VETERANS
TO THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
OF THE
HOUSE COMMITTEE ON VETERANS AFFAIRS
SEPTEMBER 22, 1983

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the 786,000 members of the Disabled American Veterans, may I say that we deeply appreciate this opportunity to present our views on the service-connected disability compensation and Dependency and Indemnity Compensation programs of the Veterans Administration.

Mr. Chairman, we applaud your decision to hold this oversight hearing on these most important benefit programs.

As you are very much aware, those VA benefits and services, the eligibility to which is based upon the incurrence of a service related wound, injury, disease or death, encompass the primary legislative focus of the Disabled American Veterans --indeed, concern for the well being of service-connected disabled veterans, their dependents and survivors constitutes the foundation upon which our organization was created and upon which it continues to rest. The DAV has always and will always main tain that, in terms of federal veterans' benefits and services, our nation's primary obligation is to first consider and address the needs of service-connected disabled veterans, their dependents and survivors.

Mr. Chairman, the history of service-connected disability and death compensation benefits for America's veterans population parallels the history of our Nation itself. Commencing with colonial times -- the Virginia General Assembly in 1624 passed a law to provide benefits to veterans who were injured fighting Indians -- and continuing through the birth of our Nation and through every major conflict fought in the 19th and 20th centuries, additions and modifications of federal veterans' statutes time and again have demonstrated that our country has never forgotten the services rendered and sacrifices endured by veterans. Though service-connected benefits have, at various times, been called both "pension" and "compensation," though these benefits and services have been subject to varying acts of Congress, administrative determinations and judicial interpretations, the basic philosophical stance of our government has never wavered -- the incurrence of a service related wound, injury, disease or death warrants appropriate federal action in the form of benefits and services to such disabled veterans, their families and their survivors.

Today, Mr. Chairman, the VA extends disability compensation to veterans who have a residual physical or mental disability caused by a wound, injury or disease that was incurred in or aggravated by honorable active service in our Armed Forces. The amount of these benefits and their periodic adjustment is established through legislation approved by the Congress and signed into law by the President. Benefits payments attempt to represent, to the most practical degree possible, the average impairment in earnings capacity caused by the service-connected disability. Monetary amounts currently range from $62 monthly for a 10% disability to $1,213 monthly for a total and permanent condition. Higher amounts are available in the form of special statutory awards for the most seriously disabled.

Service-connected death benefits (DIC) are presently extended to the widows and minor children of veterans whose deaths have been judged to be related to a service-connected disability. These rates of payment are also established and adjusted by act of Congress and, of course, are intended to provide a measure of financial security to survivors in view of the service-connected death and its affect on family income. DIC payments vary, according to the military rank of the deceased veteran and range from a low of $445 per month for the widow of a Private (pay grade E-1) to $1,139 monthly for the widow of a General Officer (pay grade O-10).

Neither disability compensation nor Dependency and Indemnity Compensation are subjected to any "means test," that is to say, once basic eligibility has been established under existing law and regulation, benefits commence and are not dependent upon any outside income criteria. Also, these benefits are not and never have been subject to taxation. There are presently over 2.2 million compensably disabled service-connected veterans on the compensation rolls, while over 350,000 widows and orphans are in receipt of service-connected death benefits.

Earlier, Mr. Chairman, I indicated our pleasure with your decision to conduct this oversight hearing. The DAV does indeed welcome the attention of you and your Subcommittee on the VA's disability compensation and DIC programs.

As a result of such oversight, not only have benefit rates been adjusted on a regular basis, but new programs have been created, existing ones have been modified to encompass additional eligibles and the needs of special categories of veterans have been addressed and met.

Most importantly, your continued oversight and familiarity with the compensation/DIC programs have, in our opinion, facilitated your immediate intervention and response in the face of threats to existing benefit levels.

In recent times, various proposals have been advanced that would have impacted in a most drastic fashion on hundreds of thousands of veterans and their families. We have, for example, seen administrative and legislative attempts to completely eliminate the compensation payments for lower disability rating categories, eliminate dependency allowance payments for certain groups of current eligibles and offset the benefits of certain totally disabled veterans who also receive Social Security benefits. In each instance, these offensive proposals have been rejected by the Congress, due in large part to the immediate response of this Subcommittee, the full Committee and your counterparts in the Senate.

At the risk of belaboring the point, let me state to you that there is no doubt in the mind of the DAV that VA benefits and services, their evaluation, periodic adjustment and improvement, should remain securely in the hands of the Veterans Affairs Committees and the Congress.

Mr. Chairman, during the remaining portion of my testimony I shall address two subjects. The first relates to recent "program reviews" conducted by the Veterans Administration. The second concerns the VA's Dependency and Indemnity Compensation program.

VA Program Reviews

Mr. Chairman, within the past two years the Veterans Administration has initiated, completed and/or proposed a series of "reviews" of certain facets of the disability compensation and pension programs. The determining factors for these reviews have been varied and included such criteria as: total and permanent "unemployability" ratings of service-connected veterans, specific diseases and conditions, aide and attendance categories, prisoner of war status, dependency status, etc. Altogether, some 17 reviews have been either completed, or are in the process of being conducted, or are proposed to be conducted. In terms of the completed reviews, to our knowledge, no significant net cost savings have resulted for the government.

Mr. Chairman, the Veterans Administration has every right to examine the management of its programs. Indeed, it has the responsibility to insure that benefits are being administered efficiently, that abuse or fraud does not exist and that internal controls are in place to insure proper administration and distribution of benefits.

No one, including the DAV, can or should object to the VA turning a critical eye on its own programs. Nevertheless, Mr. Chairman, the DAV does have several concerns regarding these reviews.

We are concerned by the confusion, unrest and outright fear that they have caused among our veteran population. Being aware of the effort to reduce federal deficits, the cut-backs occurring in domestic spending and similar review actions by other federal agencies (the Social Security Administration is a prime example), many veterans, upon being notified that their claims are to be reviewed or that they are to be called in for a reevaluation examination, become most anxious, fearing that their benefits are to be reduced or terminated. Though this concern is unfounded in most cases, it does not lessen the anxiety felt by thousands of veterans.

We are also concerned that while the purpose for a particular program review may be based upon the legitimate reasons enumerated above, the implementing authorities in the various VA Regional Offices across the country may have quite a different perception. Do local rating authorities, for example, perceive a subtle, unspoken "push" to uncover as many cases as possible where reductions or terminations of benefits might be affected? Do they believe that they are to "lean away" from confirming and continuing prior ratings if it is at all possible to do so, resolving reasonable doubt in favor of the agency instead of the claimant?

In the vast majority of cases the answers to these questions are most likely in the negative. However, if even the barest handful of veterans should be adversely affected based upon other than the most objective of adjudicative decisions, it would be most deplorable.

Mr. Chairman, officials of the DAV recently met with VA Administrator Walters and expressed these same concerns. As in the past, Mr. Walters received us most courteously and listened most attentively. He was most frank in his response. He informed us that his position as Administrator requires him to take every effort toward the goal of insuring that his agency and its programs are being responsibly managed and he indicated that he would not shrink from doing so. He also demonstrated his genuine concern for the beneficiaries of his agency by indicating that VA program reviews should not and would not be capriciously conducted --especially where there is obviously no prima facie evidence of mismanagement or potential cost savings for the government. He stated his belief and intent to see that benefit determinations throughout the system are and shall be conducted properly "the first time around," in accordance with law and regulation.

We were pleased by the Administrator's response and believe the meeting to have been most beneficial.

Mr. Chairman, we have addressed this subject in this forum to apprise you and the members of the Subcommittee of our concerns regarding these program reviews. We request that you monitor such future VA activity in conjunction with your oversight responsibilities.

Dependency and Indemnity Compensation Program

Mr. Chairman, through a resolution approved by the delegates to our most recent National Convention, the Disabled American Veterans has been given a mandate from its membership to seek the enactment of legislation that would provide for a more equitable formula on which to base VA Dependency and Indemnity Compensation payments (DIC).

As you are aware, under present law (Section 411, Title 38, U.S. Code) DIC benefit rates are based upon the military rank of a serviceman at time of death, if death occurred while on active duty, or the rank of a former serviceman at time of military discharge, if death is subsequent to active service.

There are at present some 23 separate and distinct rates under the formula which governs payments. As stated earlier, they range from a low $445 per month for the widow of a Private to $1,139 for the widow of a four star General/Admiral. (Two additional higher payments are authorized in cases where the veteran served as the senior noncommissioned officer of any one of the Uniformed Services or if the veteran occupied the top post in the Army, Navy, Air Force or Marine Corps.)

Aside from the obvious financial security factor for survivors (in view of the service related death of a family bread winner), the present rank based formula is designed to compensate survivors proportionallv, according to the "life style" or "standard of living" enjoyed while the serviceman or veteran was living.

Mr. Chairman, notwithstanding the terrible difficulty encountered while attempting to assign a monetary value to a human life -- which most definitely compounds the problem -- we believe the present DIC formula provides unjustified discriminatory payments.

For example, are the life styles of a Corporal (E-3) or a Sergeant (E-4), or a Captain (O-3) or a Major (0-5), different to any significant degree? Why should widows of two men cut down by the same burst of enemy fire receive, in some cases, vastly varied payments? Has not the standard of living of a veteran whose life was cut short by service-connected disability some twenty years after service discharge progressed greatly from the point when such veteran was a private or PFC in the Army? And what of the percentage of service-connected disability rating at time of death? Surely the severity of a disability carried throughout a life time can and does influence family income. Yet this factor has no bearing on current benefit payments.

These are not easy questions to answer, Mr. Chairman, as we in the DAV are well aware. Also, before anyone can consider modification of the current formula or substitution of new modes of payment, a detailed profile of present and projected DIC beneficiaries and claims must be obtained. I understand that your Subcommittee staff has already had informal discussion with VA personnel regarding the gathering of such data. Likewise, we in the DAV have requested the VA to obtain appropriate DIC claims information and have been informed that it will be gathered.

Upon receipt of this information, Mr. Chairman, we urge the Subcommittee to give serious consideration to DIC formula change and improvement. We hope that consideration of this issue can begin during the next session of Congress.

You will note that our National Convention mandate is quite flexible. We are willing to consider various options and, in fact, are in the process of developing recommendations of our own for your consideration. Our endeavor is to devise a plan that will first guarantee protection of existing benefit levels for current DIC beneficiaries and, at the same time, offer to the largest number of both present and future DIC recipients a more equitable and favorable distribution of benefits. We pledge our complete cooperation to you and other interested parties in pursuit of such a worthy objective.

This completes my testimony, Mr. Chairman. Again, I thank you for extending us the opportunity to participate in today's proceedings.

VETERANS OF FOREIGN [illegible] OF THE UNITED STATES

STATEMENT OF

DONALD H. SCHWAB, DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO OVERSIGHT OF THE
COMPENSATION PROGRAM OF THE VETERANS ADMINISTRATION

WASHINGTON, D.C.

SEPTEMBER 22, 1983

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for the privilege of appearing before this distinguished Subcommittee to present the views of the Veterans of Foreign Wars of the United States.

My name is Donald H. Schwab and it is my privilege to serve the more than 1.96 million men and women of the Veterans of Foreign Wars as their National Legislative Director.

The compensation program of the Veterans Administration is the keystone of all veterans' benefits. Since the founding of our great Republic, provisions have been made for veterans with service-connected disabilities to partially offset the economic hardship incurred by not being able to achieve full potential in a subsequent civilian career, and for their dependents and survivors. Benefits payable to service-connected disabled veterans have in nearly all cases over the years exceeded increases in the Consumer Price Index and for the most seriously disabled by an appreciable amount. Thanks to the wisdom and continued dedication of this Subcommittee beneficial changes have been made in the compensation program as dictated by the test of time.

★ WASHINGTON OFFICE ★
VFW MEMORIAL BUILDING ● 200 MARYLAND AVENUE, N.E. ● WASHINGTON, D. C. 20002 - 5799 ● AREA CODE 202-543-2239

Mr. Chairman, the 'Omnibus Budget Reconciliation Act of 1982," Public Law 97-253, added a new section to Title 38 of the United States Code identified as 3011 changing the criteria for commencement of the period of payment of benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension to the detriment of veterans hospitalized for service-connected disabilities in excess of 21 days in that payment of compensation at the 100 percent rate would no longer commence from the first day of hospitalization. To the credit of this Subcommittee, Title III of H.R. 2937, the "Veterans' Disability Compensation Amendments Act of 1983," reported by the full Committee, would rectify this penalty to veterans with service-connected disabilities and would fulfill our current resolution, No. 605, entitled "Restoration of Payment Date for Hospitalized Service Connected Veterans."

Mr. Chairman, VFW Resolution No. 626 calls for the reduction from 20 years to 10 years the time required for compensation ratings to be protected under the provisions of 38 USC 110. H.R. 463, introduced by you, by request, Mr. Chairman, fulfills our resolution. We of the VFW are aware that similar legislation has failed advancement in previous Congresses. A compromise which may be more palatable and enhance chances of passage is contained in H.R. 1871 also introduced by you by request. Under this bill, ratings held for 10 years would not be reduced until a final decision is rendered, thus allowing the claimant to receive the higher award through the appeal procedure without incurring an overpayment and indebtedness to the Veterans Administration.

Mr. Chairman, 38 USC 3012 stipulates that reductions in benefits become effective the last day of the month following 60 days from the date of notice to the beneficiary. Current VFW Resolution No. 674, entitled "Amend Title 38, U.S Code, Section 3012," seeks to extend the time for reduction of service-connected benefits to 120 days. The rationale, of course, is to ameliorate the hardship of reduced income. This is particularly true in unemployability cases under paragraph 18 of the Schedule for Rating Disabilities wherein compensation may be reduced $600 or more a month requiring drastic changes in living to be coped with quickly.

H.R. 465, Mr. Chairman, again introduced by you, would grant the clothing allowance authorized by 38 USC 362 to veterans with service-connected skin conditions which soil or stain clothing fulfilling VFW Resolution No. 670, entitled "Clothing Allowance for Veterans with Service-Connected Skin Conditions."

Mr. Chairman, the present provisions for the Dependency and Indemnity Compensation (DIC) program for the survivors of veterans who expired due to service-connected disabilities or, more recently, were permanently and totally disabled due to service-connected causes at the time of death were established by Public Law 84-881, the "Servicemen's and Veterans' Survivor Benefits Act of 1956." Although the DIC program has assisted many widows and, yes, widowers of veterans as well, an inequity exists in this program in that 38 USC 103(d) requires the termination of benefits upon remarriage even if such is consummated after age 60. Most other federal benefit programs do not terminate benefits if remarriage takes place after age 60, for example:

(1) 42 USC 402 authorizes continued Social Security benefits when remarriage takes place after age 60;

(2) 5 USC 8341 makes like provisions for civil service annuitants; and

(3) 10 USC 1450 does not terminate annuities under the Armed Forces Survivor Benefit Plan when remarriage is after age 60.

H.R. 334, introduced by the Honorable Robert A. Roe, and H.R. 433, introduced by the Honorable G. William Whitehurst, would both rectify this situation for DIC beneficiaries and are worthy of serious consideration by this Subcommittee.

In a related matter, Mr. Chairman, permit me to call to your attention legislation introduced in the Senate which would unfairly treat DIC beneficiaries and has not been referred to the Committee on Veterans' Affairs. I refer to S. 1627 which, among other measures, would reduce cost-of-living increases (COLA) for beneficiaries of non-needs-tested entitlement programs to include DIC by 3% of the Consumer Price Index for the calendar years 1985 through 1988. Beneficiaries of needs-tested programs such as Supplementary Security Income (SSI), Food Stamps, and Aid to Families with Dependent Children (AFDC) would receive full COLAs. The legislation has been referred only to the Senate Finance Committee although Social Security beneficiaries, Federal Civil Service and Armed Forces retirees, among others, would also suffer reduced COLA. The companion House bill, H.R. 3790, referred jointly to the Committee on Ways and Means and Government Operations, does not include DIC and would reduce certain COLAs by 2%. Our VFW Resolution No. 768 opposes this legislation and I have requested to testify when hearings are held on both bills, but the Senate's bill, in particular, must be closely followed. One of the priority legislative goals our Commander-in-Chief placed his stamp of approval on this past weekend states:

> "We oppose the passage of any legislation which would single out any group or groups while excluding others receiving federally-funded entitlement benefits for the purpose of capping, reducing or delaying annual COLAs."

In conclusion, Mr. Chairman, permit me to reiterate the appreciation of the Veterans of Foreign Wars for the continued dedication of this Subcommittee and its unwavering concern for the well-being of our Nation's veterans, their dependents and survivors.

The cited resolutions are appended to my testimony and I will be happy to respond to any questions you may have.

Thank you.

Resolution No. 605

RESTORATION OF PAYMENT DATE FOR HOSPITALIZED SERVICE CONNECTED VETERANS

WHEREAS, prior to passage of PL 97-253, a veteran requiring hospitalization, for treatment or observation in a Veterans Administration or approved non-VA hospital for a service connected disability, in excess of 21 days was assigned a total disability rating; and

WHEREAS, payment of compensation at the 100 percent rate commenced effective from the first day of hospitalization; and

WHEREAS, Public Law 97-253 established a new section to Title 38, U.S.C. prohibiting the payment of benefits for the initial month of entitlement; and

WHEREAS, this revision is viewed as having a negative financial impact on service connected veterans in a time of critical need; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that legislative effort be made to restore payment of total disability benefits from the first day of hospitalization when hospitalized in excess of 21 days.

Adopted by the 84th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 12-19, 1983.

Resolution No. 605

Resolution No. 626

TEN YEAR PROTECTION PERIOD FOR SERVICE CONNECTED DISABILITY EVALUATIONS

WHEREAS, Section 110 of Title 38, U.S. Code, now provides for the protection of all disability compensation evaluations that have been continuously in effect for 20 or more years; and

WHEREAS, Permanency should be conceded for disability compensation ratings which have been in effect for 10 years without change in evaluation with no further examination scheduled; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that Section 110 of Title 38, U.S. Code, be amended to provide that disability evaluations continuously in effect at the same evaluation rate be protected after a period of 10 years.

Adopted by the 84th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 12-19, 1983.

Resolution No. 626

Resolution No. 674

AMEND TITLE 38, U.S. CODE, SECTION 3012

WHEREAS, Title 38 U.S. Code, Section 3012, sets forth the requirements for an effective date when a reduction in benefits is to be made to a claimant; and

WHEREAS, currently, reduction in benefits is effective the last day of the month following 60 days from the date of notice to the payee; and

WHEREAS, such reductions in the VA benefits often cause a hardship until the veteran can adjust his standard of living; and

WHEREAS, these veterans need a longer period of time in which to adjust to a reduction in their benefits; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that Title 38 U.S. Code, Section 3012, be amended to provide that any reduction in service-connected benefits shall be the last day of the month following 120 days from the date of notice to the payee.

Adopted by the 84th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 12-19, 1983.

Resolution No. 674

Resolution No. 670

CLOTHING ALLOWANCE FOR VETERANS WITH SERVICE CONNECTED SKIN CONDITIONS

WHEREAS, many veterans who have service connected skin conditions which soil and stain their clothing beyond repair are not now entitled to the annual VA clothing allowance; and

WHEREAS, veterans with serious disabilities have incurred expenses in replacing the items of clothing ruined because of their service connected skin condition; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that Section 362, Title 38, U.S. Code be amended to include those veterans with serious service connected skin disorders which cause their clothing to be soiled and ruined.

Adopted by the 84th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 12-19, 1983.

Resolution No. 768

OPPOSE THE COST-OF-LIVING INCREASE LIMITATION ACT

WHEREAS, the Omnibus Budget Reconciliation Act of 1981 eliminated semi-annual cost-of-living increases (COLA) for federal civilian and Armed Forces retirees stipulating that an annual COLA would be paid in March of each year; and

WHEREAS, the Omnibus Budget Reconciliation Act of 1982 further amended COLA for federal retirees by: (1) delaying the 1983 COLA from March to April, the 1984 COLA from March to May and the 1985 COLA from March till June; (2) grants federal retirees under 62 years of age only one-half the COLA for older retirees; and (3) further penalizes Armed Forces retirees who are also civil service employees by reducing their civil service pay by an amount equal to any retiree COLA; and

WHEREAS, the First Concurrent Budget Resolution for the fiscal year 1984 further delays the COLA for federal retirees from May 1984 until January 1985; and

WHEREAS, the First Concurrent Budget Resolution for the fiscal year 1984 delays COLA for all federally-funded programs including compensation for disabled veterans and pension for veterans in need due to their non-service connected disabilities for six months; and

WHEREAS, legislation has been introduced in the United States Senate identified as the "Cost-of-Living Increase Limitation Act," which for the fiscal years 1985 through 1988 would further reduce COLA for those in receipt of federal civil service or Armed Forces retirement, the survivors of veterans who were permanently and totally disabled due to service-connected disabilities at the time of death in receipt of Dependency and Indemnity Compensation and those in receipt of social security benefits by not paying COLA at the rate of inflation reflected in the Consumer Price Index (CPI) but at three percent less than the CPI, and would grant full COLA for beneficiaries of needs-tested programs such as Supplemental Security Income (SSI), food stamps and Aid to Families with Dependent Children (AFDC); and

WHEREAS, those who have rendered a very special service to our great nation, particularly disabled veterans, should be the very last to be subjected to further reduction or postponement of COLA; and

WHEREAS, those who have best served our nation are continually being made the scapegoats for huge budgetary deficits; now, therefore

BE IT RESOLVED, by the 84th National Convention of the Veterans of Foreign Wars of the United States, that we oppose in the strongest possible terms the onerous "Cost-of-Living Increase Limitation Act" or similar legislation.

Adopted by the 84th National Convention of the Veterans of Foreign Wars of the United States held in New Orleans, Louisiana, August 12-19, 1983.

Resolution No. 768

PVA
PARALYZED
VETERANS
OF
AMERICA
CHARTERED BY THE CONGRESS OF THE UNITED STATES

STATEMENT OF

BOB MORAN, ASSOCIATE LEGISLATIVE DIRECTOR

PARALYZED VETERANS OF AMERICA

BEFORE THE

SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE

OF THE

HOUSE COMMITTEE ON VETERANS' AFFAIRS

CONCERNING

OVERSIGHT OF COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION (DIC)

SEPTEMBER 22, 1983

Mr. Chairman and Members of the Subcommittee, it is a pleasure for Paralyzed Veterans of America to appear today and present the views and concerns of its members on the compensation and dependency and indemnity compensation (DIC) programs administered by the Veterans Administration. I am Bob Moran, Associate Legislative Director, of Paralyzed Veterans of America.

PVA would like to begin by thanking this Subcommittee for its hearing of April 19, 1983, at which time we offered our views on the proposed "Veterans' Disability Compensation Amendments of 1983."

801 Eighteenth St., N.W., Washington, D.C. 20006 (202) USA-1300

PVA continues to support the President's policy, as contained in the Administration's Fiscal Year 1984 budget proposal, that cost-of-living increases in veterans service-connected disability compensation and non-service-connected disability pension be delayed for six months. In light of efforts to restrain and reduce growing budget deficits, we realize that it is incumbent upon all citizens to be willing to assist in the government's efforts.

We have always supported a viable disability compensation program to care for the needs of service-connected disabled veterans and their families. These benefits should be increased each year to keep abreast of the effects of inflation. We recognize, however, that a viable national economy is essential, if the nation is to be able to maintain its programs and services for those who have served in uniform.

Congress created the compensation program to provide for the loss of earning capability, when the diminished capacity results from injury or illness incurred while in service to the nation. Compensation is, for many of PVA's members, an extremely important and necessary entitlement because, for catastrophically disabled veterans, it remains basically their primary source of income.

PVA is not aware of any previous delay in cost-of-living adjustments such as we are presently witnessing. One of the most bothersome aspect of the delay is that Congress must predict the rate of inflation for a full year. In the past, such increases have been approved by the Committees on Veterans'

Affairs in the spring of each year, the full Congress has examined them in late summer or early fall, and they have become effective each 1 October.

Because of the new temporary procedure of delaying benefits, PVA again requests special vigilance by the Members of this Subcommittee. We ask that particular attention be given to the possibility that inflation may again accelerate and that service-connected disabled veterans and their families could receive increases less than the actual rate of inflation.

We feel confident, however, that the Members of this Subcommittee will continue in their concern for the nation's veterans. It is quite probable that this Subcommittee, and the larger Committee of which it is an arm, remains one of the least politically partisan bodies in Congress. In short, the nation's veterans are extremely fortunate to have a distinguished body that puts their well-being above other considerations.

PVA would like to address in some depth Dependency and Indemnity Compensation (DIC), the VA program which helps care for service-connected-disabled veterans' survivors. We continue to be disturbed by a major shortcoming of the DIC program, the awarding of DIC benefits based on the veteran's military pay grade. PVA has opposed this inequity in the DIC program for years.

During this Subcommittee's April 19, 1983, hearing on compensation and DIC benefits, we stated: "PVA understands that Congress cannot restructure the DIC program this year; however, we do feel that this Subcommittee should address the issue later in this Session, after the bulk of its workload has been finished. Then, next year, the Second Session could possibly see needed changes made in the DIC program." At this time, I would like to thank the Subcommittee for giving veterans' service organizations another opportunity to comment on the DIC program.

Under existing law, the survivor receives DIC benefits based on the veteran's military pay grade and not on his degree of disability. PVA understands the rationale for awarding benefits based on pay grade when a serviceman dies while in active military service. However, when service-connected disabled veterans died from service-connected causes years after termination of their military service, there is little or no correlation for using military pay grade as the basis of computing surviving spouses' Dependency and Indemnity Compensation benefits.

Congress has recognized the advancing age of millions of veterans, as evidenced by efforts to improve the VA's geriatrics program and by the extension of non-service-connected disability pension based on a presumption of disability at age 65. A corollary of these demographics is that certain older spouses of veterans are becoming increasingly reliant on survivors' benefits for support.

Very often the surviving spouse of a severely disabled veteran has provided extensive care to the veteran because of his service-connected disability. It is well recognized that the cost of continuous attendant care can and often does greatly exceed the maximum aid and attendance allowance (A&A) for service-connected disability. The result is that despite the very helpful A&A allowance, the spouses of service-connected disabled veterans often must provide time-consuming services which these veterans cannot provide for themselves. This service produces great savings for the government in situations where, without the spouses' assistance, veterans otherwise would require institutional care.

Upon becoming widowed, a surviving spouse who receives DIC may be willing to seek employment but she would, in many cases, not have marketable skills due to the constant care needed by the veteran until his death. In addition, the spouse often must seek employment at a time in life when most full-time career employees would be considering retirement.

In early 1982 PVA randomly surveyed nearly 100 surviving spouses who are in receipt of DIC benefits. We found that 56 percent were over fifty years of age, and 66 percent had been married to service-connected-disabled veterans for over twenty-one years. (Approximately 88 percent had been married to 100-percent service-connected disabled veterans for more than 10 years each.)

Obviously, PVA's belief is correct that numerous surviving spouses are left alone in life at a time when employment is difficult for them to obtain. This too often comes after they have helped care for severely disabled and catastrophically disabled veterans for extended periods of their lives.

In early 1978 the Veterans Administration presented to Congress and the President its "Evaluation of Benefits under the Dependency and Indemnity (DIC) Program." This study was done pursuant to Section 204 of Public Law

94-433, the "Veterans Disability Compensation and Survivor Benefits Act of 1976."

The "Evaluation of Benefits" found that 48.8 percent of surviving spouses in receipt of DIC received monthly payments based on military pay grades E-1 through E-4, and their mean age, as of December 1976, was 60.49 years. The report projected a decrease in the total number of DIC recipients because of spouses' advancing age and the maturation of dependent children. Also important in the reduced number of DIC recipients is that dependent parents are experiencing an increased mortality rate, while others are becoming eligible for non-VA old-aged benefits. In short, by 1976 the number of DIC recipients was decreasing more rapidly than new ones were becoming eligible.

There is a decreasing number of DIC recipients and, based on their financial needs and their contribution to the nation through caring for service-connected-disabled veterans, PVA feels that the DIC program should be restructured to care more adequately for the surviving spouses of veterans who served in the lower military pay grades. In these cases DIC should be awarded on the basis of the veteran's degree of disability, not on military pay grade.

Basing DIC benefits on the veteran's degree of disability has much more correlation to what the surviving spouse should receive than does basing them on veterans' military pay grade, a status which likely has not been operative in an individual's life for many years. It must be emphasized that the service-connected disabled veteran receives compensation benefits based on his degree of disability (not on the military pay grade at which he served when he became disabled): this, the degree of disability, also largely determines the demands placed on the spouse who cares for the service-connected disabled veteran.

Most veterans, especially those who serve in wartime, are not careerists but are citizen soldiers, there only for the duration of the war. Consequently, they have served in the lower military pay grades, where debilitating injuries are prevalent. Basing DIC on military pay grade, not on degree of injury, therefore leaves many surviving spouses of veterans with inadequate benefits despite the service rendered to the nation by the veterans and, indirectly, by the surviving spouses who have helped them live meaningful lives free of costly institutions.

At the death of the service-connected disabled veteran the surviving spouse finds herself faced with new expenses. For example, some states exempt the service-connected disabled veteran from having to pay property taxes on his home; however, upon the veteran's death, the surviving spouse is assessed taxes on the house.

Upon being widowed, the surviving spouse also finds herself having to maintain a house with DIC benefits that are adequate only for personal maintenance. A number of the DIC recipients who responded to PVA's questionnaire in 1982 reported that they were having to sell their homes: some were selling because they could not afford mortgage payments, others because they could not even afford maintenance and/or taxes on the houses that had already been paid for during their husbands' lives.

As stated, PVA's foremost concern is the urgent need for improving DIC benefits available to the surviving spouses of veterans who served in the lower military pay grades. (It is worth repeating that the VA found in 1978 that 48.8 percent of surviving spouses in receipt of DIC were married to veterans who had served in pay grades E-1 through E-4, and these are the military grades in which individuals are most likely to experience serious or catastrophic service-connected disabilities.)

PVA maintains that the DIC rate should be based on the individual veteran's degree of disability, in the same manner as are his compensation benefits. For example DIC benefits should be at some portion (such as 75 percent) of the disabled veteran's monthly compensation rate at the time of death.

Under PVA's proposal, DIC benefits based on 75 percent of the veteran's monthly compensation rate would be computed only on basic compensation and would not include awarding a surviving spouse any portion of the veteran's aid and attendance allowance.

Perhaps it would be helpful in evaluating the cost of PVA's proposal to examine the following table, which provides some useful statistics:

Dependency and Indemnity Compensation: Rates and Demographics

Veteran's Pay Grade	DIC Monthly Rate	Number of Recipients by Military Pay Grade	Percent by Pay Grade*	Group Percent*
E-1	$445	39,893	16	
E-2	459	28,111	11	
E-3	470	24,854	10	
E-4	500	23,867	10	47
E-5	514	24,824	10	
E-6	526	23,754	10	
E-7	552	24,432	10	
E-8	582	4,360	2	
E-9[1]	608	2,130	1	33
W-1	563	1,154	1	
W-2	586	1,878	1	
W-3	603	890	0	
W-4	639	960	0	2
O-1	563	3,790	2	
O-2	582	6,723	3	
O-3	622	10,240	4	
O-4	658	8,839	4	
O-5	726	7,989	3	16
O-6	817	6,026	2	
O-7	884	424	0	
O-8	969	418	0	
O-9	1,041	93	0	
O-10[2]	1,139	30	0	3

*Does not total 100% due to rounding.

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, the rate is $655.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, the rate is $1,222.

Some of the most meaningful data, useful in better estimating the cost of our proposal, would be to know the distribution disability ratings within each military pay grade. PVA does not, at this time, have such information.

With this needed information, it is very possible that our proposal, the suggested redistribution of benefits, would not require significant increases in total budgeting for the DIC program.

Several points do become clear, however: first, present beneficiaries must not be harmed by any amendment of the DIC program. That is, new beneficiaries could be grandfathered under a revised payment scheme, and existing ones could elect the new benefits structure. PVA would not support, however, requiring DIC beneficiaries into a new program that would reduce their present benefits.

Second, it is quite likely that the DIC program will need to be severed into two separate programs, one for beneficiaries of military personnel who died while on active duty, and another for beneficiaries of veterans who die post-military service of service-connected disabilities. As noted earlier, PVA can understand the relationship of DIC benefits to military pay grade when death occurs during military service. However, we find military pay grade to be irrelevant when death occurs years after termination of military duty.

Even though PVA supports granting surviving spouses 75 percent of the base monthly compensation rate, there are likely to be alternative computation formulas that would produce desirable results. We would support a proposal designed by this Subcommittee or advanced by other veterans' service organizations that reached the same result, more equitable recognition of the needs of and contributions made by the surviving spouses of service-connected-disabled veterans.

Mr. Chairman and Members of the Subcommittee, on behalf of the members of Paralyzed Veterans of America, I appreciate the time and attention given to our statement by the Members and staff of this Subcommittee.

A number of veterans' service organizations hold views similar to those of PVA, that the DIC program should be restructured to more equitably compensate surviving spouses of service-connected disabled veterans. The present system of basing DIC benefits on veterans' military pay grades does not take into consideration the sacrifices made by the spouses of veterans who have served in the lower military pay grades. Therefore, PVA asks this Subcommittee to take action to remedy this inequity.

Mr. Chairman and Members of the Subcommittee, this concludes my statement and I will glally answer any questions that I can.

THE
RETIRED
OFFICERS
ASSOCIATION
201 N Washington St Alexandria VA 22314 • (703) 549-2311

Statement of

THE RETIRED OFFICERS ASSOCIATION

before the

UNITED STATES HOUSE OF REPRESENTATIVES

COMMITTEE ON VETERANS' AFFAIRS

Subcommittee one

Compensation, Pension and Insurance

Presented by

COMMANDER JOHN F. WANAMAKER, USN, RETIRED

Deputy Director, Legislative Affairs

September 22, 1983

Mr. Chairman and Members of the Subcommittee:

I am Commander John Wanamaker, United States Navy, Retired, Deputy Director, Legislative Affairs of The Retired Officers Association (TROA) which has it's national headquarters at 201 N. Washington Street, Alexandria, Virginia. Our association has a membership of over 323,000 former and active duty officers of the seven Uniformed Services. Included in our membership are approximately 37,000 widows of former members.

Each year this panel meets to exercise its oversight responsibility in determining the proper amount of disability compensation to be provided veterans and indemnity compensation to be paid to survivors.

First, I think it important that the committee stop and look at the process. Who's making these important determinations? Is it the Budget Committee who dictates that only so much money is available for veteran's compensation? Is a 4.1, 3.5 or other percentage factor proper just because Social Security was adjusted by that amount? Why do we even try to determine a proper disability compensation where 6 month delays impose an approximate 2.5 percent loss in purchasing power. In the Senate, the Finance Committee has before it a bill S.1627 which would increase Veteran's Dependency and Indemnity Compensation for parents by the CPI less 3 percent through calandar years 1988. I might add that this bill hasn't even been referred to the Veterans' Affairs Committee for consideration. The First Concurrent Budget Resolution directs this Committee to report savings legislation to reduce budget authority by $228 m in FY84, $139 m in FY 85 and $141 m in FY 86. Are you trying to balance the Federal budget at the expense of disabled veterans and survivors? I strongly believe that if veterans' compensation is determined by the budget process alone, disabled veterans will suffer.

In reviewing current law, Section 355 Title 38 states "The ratings shall be based, as far as practicable, upon the average impairment of earning capacity resulting from such injuries in civil occupations."

The former Veterans Administration administrator, the Honorable Robert P. Nimmo, in a letter to the Speaker of the House of Representatives, dated 19 Februay 1982, stated "It has long been recognized that in individual instances, the scheduled rating is inadequate to provide fair compensation for the effect of the veteran's disablity on his or her employability." There has been no structural change to this basic law since last year, so I imagine that this inadequacy still exists. The vague term in the statute "average impairment of earning capacity" cannot be fairly or properly applied to such diverse skills as a nuclear physist or high school drop-out - both within the membership of the Armed Forces and both subject to injuries inhibiting full earning capacity. A better method must be developed to determine an individual's wage earning capacity, and the reduction in that capacity due to disease or injuries attributable to military service. The argument that this would be too difficult or arbitrary is not acceptable. The Federal government does it for its' civilian employees. States make their determination through their workmans compensation programs. It can be done! It should be done! It must be done!

Now I'm a realist and know that it's completely out of the question to change the current program for WWI, WWII or even the Korean veterans and try now to reevaluate their lost earning capacity when many of them are already out of the work force or about to complete their productive years. The current program with all its inequities should be left in place. However, there is no better time than now to look at a program for future disabled veterans. I strongly recommend that the Veterans Administration, Department of Defense, Department of Labor and the Office of Personnel Management along with the Social Security Administration form a study group to develop a proper veteran's disability compensation program. Each of these agencies have disability compensation programs that interrelate with each other.

Mr. Chairman, there exists one group of veterans that is not adequately compensated for service connected disabilities. If a person stays in the military service for 20 or more years, he becomes entitled to military retired pay, but he must forfeit an equal amount of that earned entitlement in order to receive V.A. disability compensation. He, in effect, pays his own disability compensation. I strongly urge that this committee favorably consider legislation to authorize the concurrent receipt of military retired pay for longevity and V.A.disability compensation, payments which are based on two separate and distinct criteria. It has been frequently cited that each of these is based on the same service. I contend that longevity retired pay is based on past services. V.A. disability compensation is based on the loss of future earning capacity - completely different criteria.

I have recommended that a study be conducted to review the method of determining a proper amount of veterans disability compensation. This study should be expanded to include the employment of disabled veterans within the Civil Service. I'm sure there are many jobs within the federal government that are suitable for disabled veterans. A system could be developed to reduce disability compensaton if replacement employment were provided to substitute the otherwise lost earning capacity. I believe the replacement employment could be expanded beyond the five or ten point Civil Service veterans' preference. Jobs should be identified for disabled veterans.

Dependency and Indemnity Compensation

The DIC program provides benefits to the survivors of a servicemember or former member whose death occurs on active duty or results from a service connected injury or illness. The monthly rates paid to a surviving spouse are based on the pay grade of the servicemember held on active duty.

There are at least three programs designed to provide indemnity to a family in the event of the death of a servicemember. I do not believe it possible to make a determination of fair indemnity to one program such as DIC without considering benefits derived from the other two programs. The other two programs I am speaking of are Social Security and Survivor Benefits Plan (SBP). Under most instances - but not all - if a servicemember dies on active duty after completing at least 20 years of creditable service the survivoring spouse is eligible to receive SBP benefits which are based on a percentage of basic pay at time of death. These SBP benefits are, however, offset by Social Security benefits attributable to military service and the amount of DIC awarded by the Veterans Administration. The amount received in SBP benefits is taxable while Social Security and DIC are not.

I will make a general statement that is probably true in 99 percent of instances that the DIC rating schedule for E-8/E-9/W-3/W-4 and all grades above 05 is of little significance other than the tax advantage attributable to these awards. I make this statement since the majority in these grades are retirement eligible and therefore their survivors are entitled to SBP benefits.

It's difficult to evaluate future Social Security benefits but, according to information received from that Agency, the average widow with two dependent children now receives about $900 per month in survivor benefits if the children are under the age of 16. This benefit could drop to zero suddenly. The unfortunate thing about Social Security is that this benefit for widows with dependent children can cause a large gap or drop in income between the years the youngest child no longer is classified as a dependent and until the widow reaches age 60. As you know, because of hasty budget process action, benefits were reduced for certain uniformed service widows with dependent children and restored later as a joint DoD/VA program. This is a good example of the confusion resulting from extemporaneous budget actions and the reconciliation process. I remember when I was on active duty and planning to provide for my family in the event of my death these gap years in Social Security were the most difficult to address. Most servicemembers program the VA life insurance to cover these years. Since these gap years have been expanded by two years through recent changes in Social Security legislation the $35,000 term SGLI insurance is insufficient now in most cases to perform this filler function. I'll address this deficiency at hearings which have been scheduled for next month by this committee. Suffice it to say that Social Security benefits play a significant role in providing replacement income to the dependents of deceased servicemembers. Social Security should be the basic plan on which to build income protection.

I believe it proper that this committee should establish an objective for the DIC program to replace 50 percent of Regular Military Compensation (RMC). I have chosen 50 percent because this is an accepted replacement amount for survivors of federal civilian employees and I believe that servicemembers' dependents should be similarly compensated. I have used Regular Military Compensation (RMC) on which to base this determination because it most closely corresponds to a total salary of the civilian sector and is defined in Title 10 U.S.C.

Of twenty-five grades, nine or nearly one-third of the DIC benefit schedule has little significance other than the tax advantage attributable to that benefit. So if this committee should decide that 3.5 percent increase in DIC is appropriate for these 9 ranks/grades we are only talking about the tax advantage that 3.5 percent amount of increase would bring to the beneficiary.

The nine grades whose income is determined by the SBP program have their benefit level decided by the Post Office and Civil Service Committee since military retired pay is increased at the same time and by the same percentage amount as the Civil Service retirees. When benefit levels are decided to determine the levels of income for survivors of servicemembers who died on active duty, these decisions are not being made by this panel. There are serious deficiencies in the DIC program caused by events occurring outside the purview of this committee. It is these shortfalls, such as the Social Security gap years, that cause hardships to the survivors of our brothern in arms.

Thank you Mr. Chairman, for providing me this opportunity to express our views on the various VA compensation programs. The criticism expressed is intended to be constructive and to assist this committee in its continuing efforts to provide fair and proper compensation for our disabled veterans and the survivors of those who have given their lives for their country. We commend you and the members of the committees holding these hearings in order that these programs can be improved to better serve the purpose for which they were established.

I will attempt to answer any questions that the members may have. Thank you.

STATEMENT OF

MS. DIANA L. POWELL

VICE PRESIDENT FOR LEGISLATIVE AFFAIRS
THE NATIONAL MILITARY WIVES ASSOCIATION, INC.

HEARINGS BEFORE THE SUBCOMMITTEE
ON

COMPENSATION, PENSION AND INSURANCE

COMMITTEE ON VETERANS' AFFAIRS

U. S. HOUSE OF REPRESENTATIVES

September 22, 1983

For Official Use Only Until
Released by the Subcommittee

National Military Wives Association, Inc.

2666 Military Road, Arlington, Virginia 22207 703 - 841-0462

September 22, 1983

Mr. Chairman and Members of the Committee:

The National Military Wives Association welcomes this opportunity to speak on the Dependency and Indemnity Compensation program ("DIC"). I am Diana Powell, Vice President for Legislative Affairs of the National Military Wives Association.

The National Military Wives Association is a volunteer, non-profit organization of wives, families, and members of the seven uniformed services. We seek to inform and educate military families and the public regarding issues affecting the quality of military family life.

DIC Responds to Tragic Consequences of Military Service.

Since 1957, the benefits available through the Dependency and Indemnity Compensation program have helped to alleviate the hardships facing the survivors of members of the uniformed services. Today, DIC assists widows from all parts of the military community to meet the basic needs of their families. Equally important, DIC provides reassurance to active duty personnel in all stages of their military careers that, in the event of tragedy, their commitment to their nation's military service will be matched by the commitment of their nation's government to their survivors.

Military service is a demanding way of life for military families. Frequent separations, frequent relocations, disrupted employment for spouses, interrupted education for children, and hazardous and stressful duty assignments during peacetime and war are routine aspects of military family life. All too often, military families pay the ultimate price of death or disablement of the service member, from service-connected causes. The tragic deaths of marines in Lebanon are recent examples: in peacetime as in war, the military is an ultra-hazardous profession.

DIC Provides Support for Families.

Military service creates unique needs for military families. Military family mobility disrupts both education and employment of military spouses. Because they must relocate every 2½ years, on the average, few military spouses have the opportunity to rise above entry level positions. Moreover, they are unlikely to qualify for their own retirement plans or long-term benefit programs. Frequent disruption of children's education, overseas duty, and fragmentation of family life during separations further disables spouses from vigorously seeking personal career objectives. Thus, upon loss of the service member, surviving spouses are less likely than their civilian counterparts to have financial security available from their own employment. Many widows with no prior opportunity to develop marketable skills are thrust into the labor market for the first time, while burdened by the shock of family hardship and tragedy. A strong DIC program is imperative to keep the family standard of living at acceptable levels.

Military families upon bereavement often lack the real estate equity which protects their civilian counterparts. Frequent relocations, separations, and requirements to reside in military quarters or overseas defeat many families' attempts to obtain the security of owning substantial equity in a family residence. Often, the family resides in military quarters and must vacate scon after tragic loss of the military member. A strong DIC program is critical if the family is to live in decent quarters.

The average military widow receiving DIC benefits is slightly over sixty years old, according to a Veterans Affairs study done in 1978. Older widows have even greater difficulty surviving financially, as inflation diminishes the value of the various fixed-level benefits on which they depend. Substantial employment is less available to these women. A DIC program which adequately reflects economic change and meets inflation is a necessity.

Morale Effect of DIC.

Service members must be reassured that their dedication to the needs of their service and their sacrifices will be matched by an equal concern for their survivors. Financial security for family members is a factor in the decision to select a military career, for the large proportion of military personnel who are married. In justice to their families, military members can commit themselves to hazardous military careers only if assured their families will be protected in case of tragedy. Virtually all career military personnel can expect to come under hostile fire. Air Force analysts determined that 85% of personnel retiring in 1982 had received hostile fire pay in the course of their careers.

The wives, widows, and family members who comprise The National Military Wives Association share the tradition of commitment to our nation and its armed forces. We proudly support our spouses as they implement national policy and fulfill the military missions of our country. Programs such as DIC must provide adequate protection for the survivors who through their spouses and parents have paid the ultimate price to safeguard our liberties.

The National Military Wives Association again requests that you enact proposed legislation which would enable military widows to remarry after the age of 60 without forfeiting DIC benefits. Sadly, considerations of the financial disaster of loss of DIC force some widows to live lonely lives or accept life-styles which are morally offensive to them.

Finally, The National Military Wives Association requests that you enact long overdue increases in the rate of DIC for surviving spouses and children. These families have lost too much to their country's service not to be afforded an adequate standard of living.

Thank you for this opportunity to comment of Dependency and Indemnity Compensation.

NATIONAL ASSOCIATION of MILITARY WIDOWS
4023 — 25th ROAD NORTH
ARLINGTON, VIRGINIA 22207

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STATEMENT OF JEAN ARTHURS
LEGISLATIVE DIRECTOR
OF THE
NATIONAL ASSOCIATION OF MILITARY WIDOWS
BEFORE THE
SUBCOMMITTEE ON COMPENSATION, PENSION AND INSURANCE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

September 22nd, 1983

The Secretary of the Army stated, "When the government contracts for the serviceman, it really contracts for the entire family unit as it includes all of the family in the adjusted lifestyle, the 24-hour call, the 'perils and discomforts' with readiness to serve anywhere, to go to hazardous places at a moment's notice." The service wife is expected to be ready to follow her husband to any assignment, or to remain behind cheerfully, and to always be an ambassador for the United States. These women have proven to be some of the best emissaries this country has ever had.

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To care for him who has borne the battle, and his widow, and his orphan.
A. Lincoln

Mr. Chairman and members of the Committee:

We appreciate this opportunity to present the views of the National Association of Military Widows at this learing on legislation relating to the Dependency and Indemnity Compensation program as it affects surviving widows.

H. R. 433 as introduced by Rep. Whitehurst (R. Va)
H. R. 334 as introduced by Rep. Roe (D. N. J.)

The above bills will amend Title 38 of the United States Code to allow military widows in receipt of dependency and indemnity compensation (DIC) to remarry after age 60 and retain their annuity.

The Nation has acknowledged a debt to these military widows through the enactment of the DIC program. They are surviving widows of a serviceman who died on active duty, or a retiree whose death in retirement was a result of disease or injury that was service-connected.

The other Federal programs covering death in job-related cases have included this option. Under the FECA program at age 60 the widow is allowed to remarry and the annuity continues. If she remarries before age 60, she is awarded 24 months full annuity. Under the DIC program the annuity ends with remarriage at any age and there is no award made.

Among other programs with the remarriage after 60 factor include the military Retired Serviceman's Family Protection Plan and the Survivor Benefit

Plan. Omitting the DIC program from this option amounts to discrimination within categories on the military community.

Civil Service and the Foreign Service programs have factored in the retaining of the annuity on remarriage after age 60.

Everyone of these groups have the same paymaster -- the United States Treasury. The National Association of Military Widows feel it is time for Congress to show some compassion and correct this inequity among Federal programs.

The cost factor to the government for this change in regulations allowing the surviving spouse to remarry would be negligible as so few widows after age 60 have the opportunity to do so. However, it would make it fair for the few who could do so. These fine, older ladies would not be marrying and carrying younger deadbeat husbands the second time around as some fear they might. In support of this conclusion I offer the example of our association. Our files show only three covered widow remarriages since 1978. We have members throughout the nation.

Statistics prove that older men marry younger women. However, demographic figures show that only fourteen out of every 10,000 widows remarriage after age 60.

We can not continue to abide with a system which disregards military men's contribution for the preservation of freedom the day they die, and discriminates against their dependent survivors.

A past Secretary of the Army states, "When the government contracts for the serviceman, it really contracts for the entire family unit as it includes all of the family in the adjusted lifestyle, the 24-hour call, the perils and discomforts with readiness to serve anywhere, to go to hazardous places at a moment's notice."

The service wife is expected to be ready to follow her husband to any assignment, or to remain behind cheerfully and carry on the family burdens, whatever they might be and whereever the family might be. These women have proven to be some of the best ambassadors this country has ever had —— their patriotism and commitment to the military can not be questioned.

It is considered unseemly that the lamentable plight of these fine people should continue to be ignored.

We stronly urge that these bills be favorably viewed by this Congress and our country's chief executive.

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There is an area of oversight in regard to the Dependency and Indemnity Compensation. The military are paid and administered by the Department of Defense and they are federal employees in every sense of the word. For this reason it would seem that the widows and dependent children of regular and reserve members of the armed forces, who died in the performance of official duties, should be included as eligible beneficiaries in the definitions of the Federal Employees Compensation Act.

Civil Service employees of the Department of Defense are covered by provisions of the FECA, but military personnel are not.

Since 1957 widows and children of military personnel whose death was service-connected have received DIC at rates that are the same for job-related deaths and deaths which are not job-related that occur during active military service or following retirement or discharge and are a result of injury or disease incurred during military service.

A substantial difference in death compensation exists at eve ry pay level between DIC and FECA programs. This is due to the compensation formula used to compute survivor benfits under each applicable law. To avoid this inconsistency it would seem feasible that the FECA should apply to all job-related deaths of federal employees, military or civil service.

DIC is the only compensation program that is predicated on the longer one served and the higher the rank and greater responsibilities one assumed, the less percentage of compensation the survivor receives. A substantial difference in death compensation exists at every pay level. The minimum amount of DIC for widows of privates, airmen, and seamen in pay grade E-1 equals 44.15 percent of the serviceman's pay. The maximum amount of DIC for widows of pay grade O-10 whose death was job-related - after having served over 30 years, is 15.7 percent.

The FECA compensation formula is computed at 55 percent of the civilian pay and escalates to 75 percent in some cases depending on the cause of death and if children are involved. Under the FECA one full year's annuity (12 month's pay) is granted as a non-taxable gift. This sum with bonuses could amount to $83,000 for a Senior Executive under Civil Service. The military gratiuty is based on a percentage level with a top of $3,000. even for an O-10, it is tax-free.

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According to the law,the Dependency and Indemnity Compensation widow is entitled to medical care on a basis with active duty dependents at all military medical installations. We are unable to trace any cases where this regulation was followed by the military medical service.

As appropriations are cutback it is becoming increasingly difficult to secure adequate medical care at military hospitals and other health facilities. Champus entitlements have been drastically curtailed to the point that the medical certificate needed for outside care is impossible to secure in most areas of the nation.

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This concludes my testimony for today. I wish to again thank you, Mr. Chairman, members of the Subcommittee and the staff for allowing me to testify today on behalf of the military widows.

Jean Arthurs
President

The American Legion
★ WASHINGTON OFFICE ★ 1608 "K" STREET, N.W. ★ WASHINGTON, D.C. 20006 ★
(202) 861-2700 ★
For God and Country

September 22, 1983

Honorable Douglas Applegate, Chairman
Subcommittee on Compensation, Pension
and Insurance
Committee on Veterans Affairs
House of Representatives
Washington, D.C. 20515

Dear Chairman Applegate:

This letter is in response to your invitation for The American Legion to offer comment on the Veterans Administration's Disability Compensation program for the record of the September 22 hearing of the Subcommittee.

The major problem that we feel needs to be addressed immediately is the manner in which Post-Traumatic Stress Disorder cases are being handled by VA Adjudication personnel. We were alerted to the fact that problems existed early in 1982 when we began receiving an increasing number of complaints from our Department Service Officers, American Legion officials, and individual Vietnam veterans about the negative manner in which some veterans filing claims for service connection for PTSD and others seeking medical treatment were being treated.

As a result of these complaints, in October our Field Service Representatives were instructed to conduct a review of the way in which PTSD is being handled during site visits to each VA facility. In addition, our Department Service Officers and other accredited representatives of The American Legion have been requested to advise us of PTSD claims that have been denied because of inadequate examinations or overly stringent adjudication procedures.

Interestingly enough, a large number of the complaints we are currently receiving about the adjudication of claims are coming from VA medical center officials. One Chief of Psychiatry reported that VA Regional Office personnel are very strict on the adjudication of PTSD claims, and in the cases of several veterans who he had evaluated as having incurred PTSD the Rating Boards denied the claims. The Chief felt that criteria used by the Regional Office was, in some cases, too restricting.

Another memorandum from a Legion Field Representative reporting on the PTSD situation at a VA medical center states as follows:

"The greatest problem has been with the adjudication of claims. The Chief of Psychiatry said that nearly 99% of the claims in the past have been disallowed. This has since been reduced to about 50/50. She stated that there did not seem to be a happy medium. If they did not go into a lot of detail, the Adjudicators said there was not enough evidence to support a claim. If they did go into detail, they were told that they sounded like advocates for the veterans. There have been some veterans who have had their claims denied more than once. There are plans to establish a 3-4 member panel to confirm a diagnosis of PTSD prior to going to adjudication."

The Chief of Psychiatry at yet another medical center stated that veterans are not being given any benefit of doubt in PTSD claims. The Chief further stated that of all the claims for service connection for PTSD sent to the Regional Office, it was reported that only one or two claims at most were allowed.

A memorandum regarding a site visit to another VAMC states that the Chief of Psychiatry reported that there has been a continuous question in his mind concerning the percentages of PTSD cases in which compensation is granted. He stated that he could not describe the VARO adjudication decisions on PTSD as an acute problem because the number of PTSD cases pending at the VARO have been few. However, from time to time he has become aware of cases that were denied, which to him contained valid circumstances indicating PTSD symptoms were demonstrated. The Field Representative concluded the memorandum by stating "The Chiefs comments follow a pattern that I have found in my VAMC surveys." He further mentioned that continually, Chiefs of Psychiatry report that the validity of the criteria for PTSD used by VARO's are often in question.

The complaints that we continuously receive from American Legion Department Service Officers from all parts of the country echo those of the VA medical center officials.

We have brought these specific problems to the attention of officials of the Department of Veterans Benefits on several occasions, but have yet to see much improvement in the way that PTSD cases are rated.

National Commander Keith Kreul, in his recent statement before the full Committee on Veterans Affairs, emphasized that

The American Legion has tried to make clear to the VA that it will not tolerate from VA employees anything less than a sensitive and helpful attitude toward all veterans, and most especially toward Vietnam veterans who have special problems. Post-Traumatic Stress Disorder is certainly one of those special problems and the Legion is not at all pleased with the manner in which it is being handled by VA.

Mr. Chairman, The American Legion appreciates the opportunity to advise you of the organization's concerns on this important matter. We stand ready to provide you and the Subcommittee with additional information if you so wish.

Sincerely,

E. PHILIP RIGGIN, Director
National Legislative Commission

cc: All Members of the Subcommittee

Jewish War Veterans of the United States of America
1712 New Hampshire Avenue, N.W., Washington, D.C. 20009

Joseph Zoldan
[illegible]

0983003NX

September 19, 1983

Mr. Douglas Applegate, Chairman
Subcommittee on Compensation, Pension and Insurance
Committee on Veterans' Affairs
335 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

I regret that we will be unable to testify at the oversight hearing of your Subcommittee regarding compensation on September 22. However, I would appreciate this statement being entered into the formal hearing record.

On March 17, 1983, the Jewish War Veterans of the U.S.A. testified before the Joint House/Senate Committees on Veterans' Affairs where we detailed our stand on several issues pertaining to compensation. One particular issue of concern which we want to discuss today is the payment of hospitalization benefits.

JWV passed a resolution at our national convention recently supporting the restoration of payment of increased temporary benefits for veterans requiring hospitalization in excess of 21 days for a service-connected disability, to the first day of hospitalization. Current law restricts payment of compensation to the first day of the month following the month in which the award became effective, creating a serious inequity in the amount of compensation these veterans receive.

For example, a veteran admitted on the third day of a month who meets the 21-day requirement will not receive temporary increased compensation benefits for that month. Whereas, if the veteran remains and is released during the following month, his effective date of eligibility of increased temporary compensation would be the first day of the following month.

The intended purpose of this benefit has been to provide temporary financial assistance while the veteran is hospitalized for a service-connected disability and not working. Realizing the inequities in the current law, the Jewish War Veterans of the U.S.A. believes strongly that the payment of increased temporary should be restored to the first day of hospitalization.

Sincerely,

Joseph Zoldan

Joseph Zoldan
National Commander